कारपोरेशन एक्ट

(3) Any officer specially authorized by the State Government in this behalf shall be entitled to attend the meeting of the Mahapalika and to address it on any matter af..cting his de-p..tment or in respect of which he has special knowledge.

(4) ..e Mahapalika may request the State Government to direct t.. Head of any Government department or any other officer of tha.. ..partment to attend a meeting of the Mahapalika.

..ceedings of Mahapalika, ..cutive Com-..ee, etc.

102. The meetin.. of the Mahapalika, the Executive Committee, the Develo..ent Committee and all other Committees and sub-Committees ..ll be held and the business before them conducted and dispos.. ..f in the manner prescribed by bye-laws made by the Maha.. ..ka.

..aws under Chapter

103. (1) Subject to and consisten.. with the provisions of this Act, the Mahapalika may make ..laws for regulating the holding of and the conduct of business meeting and the meetings of the Executive Committee, the De.. ..pent Committee, Committees constituted under section 5, ..l Committees, Joint Committees and sub-committees.

(2) Without prejudice to the generality of powers co.. ..ed under sub-section (1) the bye-laws may provide for—

(i) the time and place of meetings of the Mahapalika, Committees and sub-committees;

(ii) the manner in which notice of such meetings shall be given ;

(iii) the management and adjournment of such meetings, and the regulation of orderly conduct of business thereat, including the withdrawal or suspension of members guilty of disorderly conduct ;

(iv) the procedure at meetings of the Mahapalika, Committees and sub-committees ;

(v) the minute book, and keeping of record of proceedings of Mahapalika, Committees and sub-committees ;

(vi) inspection of minutes and reports of proceedings and supply of copies thereof to members and other persons on payment of fee or otherwise ;

(vii) constitution of Committees and sub-committees ;

(viii) appeal from decisions of sub-committees to the Committee

(*a*) in respect of those officers and servants ..e-diately subordinate to the Mukhya Nagar Lekha Parikshak, in the Mukhya Nagar Lekha Parikshak, and

(*b*) in respect of all other officers and servants, in the Mukhya Nagar Adhikari.

Vacancies, etc. not to invalidate proceedings

104. (1) No act or proceeding of the Mahapalika or of any Committee or sub-committee appointed under this Act shall be invalid or be questioned on account of any vacancy in its body.

(2) No disqualification of, or defect in, the election or appointment of any person acting as a Sabhasad or a Vishishta Sadasya or as Nagar Pramukh or Upa Nagar Pramukh or Presiding Officer of the Mahapalika or as Chairman or Vice-Chairman or member of any Committee or sub-committee appointed under this Act shall be deemed to vitiate any act or proceeding of the Mahapalika or of any such Committee or sub-committee as the case may be, in which such person has taken part, provided the majority of the persons who were parties to such act or proceedings were entitled to act.

(3) Until the contrary is proved, every meeting of the Mahapalika or of a Committee or sub-committee in respect of which a minute has been made and signed in accordance with this Act or the bye-laws shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are proceedings of a Committee or sub-committee, such Committee or sub-committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

Bar to questioning of act and proceeding on ground of mere irregularity

105. No act done or proceeding taken under this Act shall be called in question in any court on the ground merely of any defect or irregularity in procedure not affecting the substance.

CHAPTER IV

OFFICERS AND STAFF

Creation of posts

106. (1) Subject to such conditions as may be prescribed a Mahapalika may from time to time create one or more of the following posts, as it may consider necessary, in connexion with its affairs, namely,—

(i) Upa Nagar Adhikari ;

(ii) Sahayak Nagar Adhikari ;

(iii) Nagar Abhiyanta ;

(iv) Nagar Swasthya Adhikari ;

(v) Mukhya Nagar Lekha Parikshak ; and

(vi) other posts of officers, staff and other servants necessary for the efficient discharge of its functions:

Provided that where the State Government orders to the effect that the Mahapalika do create a post, it shall be obligatory for the Mahapalika to create such post :

Provided further that a post created under the first proviso shall not be abolished without the sanction of the State Government.

(2) The qualifications of persons to be appointed to posts created under sub-section (1) shall be such as may be prescribed by the State Government.

Appointment to posts

107. (1) Appointment to the posts of Upa Nagar Adhikari, Sahayak Nagar Adhikari, Nagar Abhiyanta, Nagar Swasthya Adhikari, and Mukhya Nagar Lekha Parikshak shall be made by the Nagar Pramukh in consultation with the State Public Service Commission in the manner prescribed

Provided that the appointment of Nagar Swasthya Adhikari shall preferably be made out of Officers of the Public Health Department of the State Government whom the State Government may be agreeable to send on deputation and in such case consultation with the Public Service Commission shall not be necessary.

(2) Appointment to other posts carrying an initial salary of not less than Rs.200 shall be made in consultation with the State Public Service Commission in the manner prescribed. The authority to appoint such officers and servants of the Mahapalika shall vest—

(*a*) in respect of those officers and servants who are immediately subordinate to the Mukhya Nagar Lekha Parikshak, in the Mukhya Nagar Lekha Parikshak, and

(*b*) in respect of all other officers and servants, in the Mukhya Nagar Adhikari.

(3) All other appointments except those specified in sub-sections (1), (2) and (5) shall be made in accordance with the recommendations of a Selection Committee constituted under sub-section (4) and the authority to make such appointments shall vest—

(*a*) in respect of those officers and servants who are immediately subordinate to the Mukhya Nagar Lekha Parikshak, in the Mukhya Nagar Lekha Parikshak, and

(*b*) in respect of all other officers and servants, in the Mukhya Nagar Adhikari.

(4) The Selection Committee referred to in sub-section (3) shall consist of the Mukhya Nagar Adhikari or his nominee, the Mukhya Nagar Lekha Parikshak and the Head of the Department for which the appointment is to be made. The Mukhya Nagar Adhikari and, in his absence, the member designated by him for the purpose, shall be the Chairman of the Selection Committee:

Provided that the Committee referred to above which may be constituted in connexion with the appointments of officers and servants immediately subordinate to the Mukhya Nagar Lekha Parikshak, shall consist of the Mukhya Nagar Lekha Parikshak and two other officers of the Mahapalika who shall be nominated by the Executive Committee and the Mukhya Nagar Lekha Parikshak shall be the Chairman of such Committee.

(5) Appointments to posts in the engineering, water-works, public health and other departments of the Mahapalika and carrying an initial salary of not more than Rs. 50 shall be made by the Heads of the Departments concerned specified under section 112 subject however to any bye-laws made by the Mahapalika in this behalf.

(6) In the case of any difference of opinion between the appointing authority and the State Public Service Commission a reference shall be made by the Mukhya Nagar Adhikari to the State Government whose decision shall be final.

Officiating and temporary appointments to certain posts

108. Notwithstanding anything contained in section 107 officiating and temporary appointments to posts mentioned in sub-sections (1), (2) and (3) of the said section may be made by the appointing authorities specified in those sub-sections without consulting the State Public Service Commission or obtaining the recommendation of the Selection Committee, but no such appointment shall continue beyond the period of one year, nor shall be made where it is expected to last for more than a year, without consulting the State Public Service Commission or otherwise than in accordance with the recommendation of the Selection Committee, as the case may be.

Conditions of service, etc

109. The emoluments and other conditions of service of officers, staff and other servants of the Mahapalika shall be such as may be prescribed by the State Government.

Punishment of officers of the Mahapalika

110. (1) The authority entitled under section 107 to make appointments to any post shall be the authority entitled to dismiss, remove from service or otherwise punish any person holding such post:

Provided that in the case of employees whose appointment is required to be made in consultation with the State Public Service Commission under section 107, it shall be necessary for the authority concerned to consult the Commission in the manner prescribed, before passing an order for the dismissal, removal or reduction in rank of any such employee.

(2) Punishment of officers and servants of the Mahapalika shall be subject to such right of appeal as may be prescribed.

Power of the State Government to make appointments

111. Where any authority specified in section 107 fails within a reasonable time to make appointment to any post specified in section 106 or created thereunder the State Government may after giving the authority due opportunity and consulting the State Public Service Commission, if necessary, make appointment thereto and such appointment shall then be deemed for all purposes to have been made by the authority concerned.

Power and duties of certain officers

112. (1) The Upa Nagar Adhikari and Sahayak Nagar Adhikari shall, subject to the control of the Mukhya Nagar Adhikari, exercise such powers and perform such duties of the Mukhya Nagar Adhikari as the Mukhya Nagar Adhikari may specify in this behalf.

(2) All acts done and jurisdictions exercised by the Upa Nagar Adhikari or the Sahayak Nagar Adhikari in pursuance of the powers delegated to him under sub-section (1) shall, for all purposes, be deemed to have been performed and done by the Mukhya Nagar Adhikari.

(3) The Nagar Abhiyan'a, the Nagar Swasthya Adhikari, the Mukhya Nagar Lekha Parikshak and such other officers as may be specified by the State Government shall be called the Heads of the Departments of the Mahapalika and shall perform such duties and shall exercise such powers as are imposed upon them by or under this Act or any other enactment for the time being in force.

Power to make rules

113. (1) The State Government may make rules for the purposes of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing powers such rules may provide for—

(*a*) the method of recruitment, and qualification of persons to be appointed, to the posts created in connexion with the affairs of the Mahapalika;

(*b*) the designation and grade of posts of officers, staff and other servants created under clause(v) of sub-section (1) of section 106;

(*c*) the appointment of persons in temporary or officiating capacity ;

(*d*) the salaries, emoluments and other allowances of persons appointed to the aforesaid posts ;

(*e*) the leave, punishment, including dismissal and removal, appeal and other disciplinary matters and other conditions of service of the officers, staff and other servants of the Mahapalika ; and

(*f*) specification of officers as Heads of Departments of the Mahapalika.

CHAPTER V

DUTIES AND POWERS OF THE MAHAPALIKA AND MAHAPALIKA AUTHORITIES

Obligatory duties of the Mahapalika

114. It shall be incumbent on the Mahapalika to make reasonable and adequate provision, by any means or measures which it is lawfully competent to it to use or to take, for each of the following matters, namely,—

(i) erection, where there are no natural boundary marks, of substantial boundary marks of such description and in such a position as shall be approved by the State Government defining the limits or any alteration in the limits of the City ;

(ii) the naming or numbering of streets and of public places vesting in the Mahapalika and the numbering of premises ;

(iii) the collection and removal of sewage, offensive matter and rubbish and treatment and disposal thereof including establishing and maintaining farm or factory ;

(iv) the watering, scavenging and cleansing of all public streets and places in the City and the removal of all sweepings therefrom ;

(v) the construction, maintenance and cleansing of drains and drainage works, and of public latrines, water-closets, urinals and similar conveniences ;

(vi) supplying, constructing and maintaining, in accordance with the general system approved by the Mahapalika receptacles, fittings, pipes and other appliances whatsoever on or for the use of premises for receiving and conducting the sewage thereof into drains under the control of the Mahapalika ;

(vii) the management and maintenance of all Mahapalika waterworks and the construction or acquisition of new works necessary for a sufficient supply of water for public and private purposes ;

(viii) guarding from pollution water used for human consumption and preventing polluted water from being so used ;

(ix) the lighting of public streets, Mahapalika markets and public buildings and other public places vested in the Mahapalika ;

(x) the establishment, maintenance or supports of public hospitals and dispensaries including hospitals for the isolation and treatment of persons suffering or suspected to be infected with a contagious or infectious disease and carrying out other measures necessary for public medical relief ;

(xi) preventing and checking the spread of contagious, infectious and dangerous diseases ;

(xii) provision for anti-rabic treatment ;

(xiii) maintenance of ambulance service ;

(xiv) establishing and maintaining a system of public vaccination ;

(xv) the registration of vital statistics including births and deaths ;

(xvi) establishing, maintaining and assisting maternity centres and child welfare and birth control clinics;

(xvii) the organization, maintenance or management of chemical or bacteriological laboratories for the examination or analysis of water, food or drugs, for the detection of diseases or adulteration or for researches connected with public health ;

(xviii) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances ;

(xix) the regulation and abatement of offensive and dangerous trades, callings or practices including prostitution ;

(xx) the maintenance, fixing and regulation of places for the disposal of the dead and the provision of new places for the said purpose and disposing of unclaimed dead bodies or aiding within its means any arrangement made with the same objects by any other institution ;

(xxi) the construction and maintenance of public markets and slaughter-houses and the regulation of all markets and slaughter-houses ;

(xxii) the securing or removal of dangerous buildings and places ;

(xxiii) maintaining hydrants and rendering such assistance, including the maintaining or managing of a fire brigade in extinguishing fires and protecting life and property when fires occur, as the State Government may by general or special order direct from time to time ;

(xxiv) the removal of obstructions and projections in or upon streets, bridges and other public places;

(xxv) establishing, maintaining, aiding and suitably accommodating schools for primary education including nursery education ;

(xxvi) establishing and maintaining or granting aid to institutions of physical culture ;

(xxvii) maintaining or contributing to the maintenance of veterinary hospitals ;

(xxviii) the construction or acquisition and maintenance of cattle-pounds ;

(xxix) the construction, maintenance, alteration and improvement of public streets, bridges, sub-ways, culverts, causeways and the like ;

(xxx) planting and maintaining trees on road sides and other public places ;

(xxxi) regulation of traffic and provision of traffic signs ;

(xxxii) assisting by constructing and maintaining residential quarters, by giving loans in the proper housing of Mahapalika conservancy staff and all sections of working classes ;

(xxxiii) town planning and improvement including slum clearance and preparation and execution of housing schemes and laying out of new streets ;

(xxxiv) maintaining and developing the value of property vested in, or entrusted to the management of the Mahapalika ;

(xxxv) the maintenance of a Mahapalika office and of all public monuments and open space and other property vesting in the Mahapalika ;

(xxxvi) the issue of a Bulletin reporting proceedings or substance of proceedings of the Mahapalika and of its committees and giving other information about the activities of the Mahapalika ;

(xxxvii) prompt attention to official letters and preparation and submission of such return, statements and reports as the State Government requires the Mahapalika to submit, and

(xxxviii) fulfilment of any obligation imposed by or under the Act or any other law for the time being in force.

Discretionary duties of Mahapalika

115. The Mahapalika may, in its discretion, provide from time to time, either wholly or partly, for all or any of the following matters, namely—

(i) the organization, maintenance or management of institutions including lunatic asylums, leper homes, orphanages and rescue homes for women, within or without the City for the care of persons who are infirm, sick or incurable ; or for the care and training of blind, deaf, mute or otherwise disabled persons or of handicapped children ;

(ii) the provision of milk to expectant or nursing mothers or infants or school children ;

(iii) swimming pools, public wash houses, bathing places and other institutions designed for the improvement and construction of bathing *ghats* on river banks ;

(iv) dairies or farms within or without the City for the supply, distribution and processing of milk or milk products for the benefit of the residents of the City ;

(v) the construction and maintenance in public streets or places of drinking fountains or drinking sheds or stand-posts for human beings and water-troughs for animals ;

(vi) encouraging music and other fine arts and providing music in public places or places of public resort ;

(vii) making grants to educational and cultural institutions situated within and outside the City ;

(viii) the provision of public parks, gardens, play-grounds and recreation grounds, installing statues and beautifying the City;

(ix) the holding of exhibitions, athletics or games ;

(x) the regulation of lodging houses, camping grounds and rest-houses in the City ;

(xi) the construction, establishment and maintenance of theatres, rest-houses and other public buildings ;

(xii) the organization or maintenance, in times of scarcity, of shops or stalls for the sale of necessaries of life ;

(xiii) the building or purchase and maintenance of dwellings for Mahapalika officers and servants ;

(xiv) the grant of loans for building purposes to Mahapalika servants on such terms and subject to such conditions as may be prescribed by the Mahapalika ;

(xv) any other measures for the welfare of Mahapalika servants or any class of them ;

(xvi) with the State Government's previous sanction, the purchase of any undertaking for the supply of electrical energy or gas or the starting or subsidizing of any such undertaking which may be in the general interests of the public ;

(xvii) with the State Government's previous sanction the construction, purchase, organization, maintenance or management of tramways, trackless trams or motor transport facilities for the conveyance of the public or goods within or without the City ;

(xviii) the furtherance of educational objects other than those mentioned in clause (xxv) of section 114 and making grants to educational institutions within or without the City ;

(xix) the establishment and maintenance or the aiding of libraries, museums and art galleries, botanical or zoological collections and the purchase or construction of buildings therefor ;

(xx) construction, establishment, maintenance or contributions to the maintenance of baths, bathing *ghats*, washing places, tanks, wells, dams and other works of public utility ;

(xxi) the construction or maintenance of infirmaries or hospitals for animals ;

(xxii) the destruction of birds or animals causing a nuisance or of vermin, and the confinement or destruction of stray or ownerless dogs ;

(xxiii) contributions towards any public fund raised for the relief of human suffering within the City or for the public welfare ;

(xxiv) presentation of civic addresses and holding of civic receptions ;

(xxv) the acquisition and maintenance of grazing grounds and the establishment and maintenance of a breeding stud ;

(xxvi) grant of loans or other facilities to any person, society or institution interested in the provision of dwellings or the execution of house schemes ;

(xxvii) the provision of poor relief ;

(xxviii) the building or purchase and maintenance of *gaushalas* and of sanitary stables of horses, ponies or cattle used in hackney carriages or carts ;

(xxix) surveys of buildings or lands;

(xxx) relief measures to meet any calamity affecting the public in the City ;

(xxxi) the adoption of any measure likely to promote the public safety, health or convenience than a measure specified in section 114 or in the other clauses of this section ;

(xxxii) subject to the provision in the budget, the making of a contribution towards any public ceremony or entertainment in the City ;

(xxxiii) the establishment and maintenance of tourist bureau ;

(xxxiv) the establishment and maintenance of a press and workshop for Mahapalika work as also for undertaking private work on charges in spare time ;

(xxxv) making arrangement for preparation of compost manure from nightsoil and rubbish ;

(xxxvi) taking measures to promote trade and industry and establishing a Mahapalika bank ;

(xxxvii) establishing Labour Welfare Centres for its employees and subsidizing the activities of any association, union or club of such employees by grant or loan for its general advancement ;

(xxxviii) organizing or contributing to municipal board unions ;

(xxxix) making provision for removal of social disabilities of scheduled castes and backward classes ;

(xL) taking measures for the control and relief of beggary ;

(xLi) with the previous sanction of the State Government the setting up and maintenance of a Mahapalika police force for taking over and discharging such police duties and in such manner as may be prescribed ;

(xLii) with the previous sanction of the State Government, the undertaking of any commercial duty providing or promoting amenity or employment or removing unemployment ;

(xLiii) the doing of anything whereupon expenditure is declared by the State Government or by the Mahapalika with the sanction of the State Government to be an appropriate charge on the Mahapalika fund :

Provided that the State Government may in respect of any Mahapalika or all Mahapalikas by notification in the official *Gazette* declare any of the functions mentioned in this section to be a duty of the Mahapalika or all Mahapalikas and thereupon the provisions of this Act shall apply thereto as if it had been a duty imposed by section 114.

Division of functions between Mahapalika authorities

116. (1) The respective functions of the several Mahapalika authorities shall be such as are specifically prescribed by or under this Act.

(2) In the event of any doubt or dispute arising as to which Mahapalika authority any particular function belongs, the Mukhya Nagar Adhikari may, and if the Nagar Pramukh so requires shall, refer the doubt or dispute to the State Government whose decision shall be final and not open to question in any court of law.

Functions of Mahapalika authorities

117. (1) Except as otherwise expressly provided in the Act, the municipal administration of the City shall vest in the Mahapalika.

(2) Except as otherwise expressly provided in this Act the Executive Committee shall be vested, for and on behalf of the Mahapalika, with the superintendence of the municipal administration of the City.

(3) The Development Committee shall perform the functions and have the powers mentioned in Chapter XIV.

(4) The functions and powers of a Committee appointed under clause (*e*) of section 5 shall be such as may be assigned to it by the Mahapalika with the previous sanction of the State Government.

(5) Subject, whenever it is hereinafter expressly so directed to the sanction of the Mahapalika or of the Executive Committee, as the case may be, and subject to all other restrictions, limitations and conditions imposed by or under this Act, the executive power for the purposes of carrying out the provisions of this Act shall be vested in the Mukhya Nagar Adhikari who shall also perform all the duties and exercise all the powers specifically imposed or conferred on him.

(6) Without prejudice to the generality of the provisions of sub-section (5), the Mukhya Nagar Adhikari shall also—

(*a*) subject to the provisions of this Act and the rules made thereunder, prescribe the duties of and exercise supervision and control over the acts and proceedings of all Mahapalika officers and servants other than the Mukhya Nagar Lekha Parikshak and the Mahapalika officers and servants immediately subordinate to him and dispose of all questions relating to the service of the said officers and servants and privileges and allowances ;

(*b*) in any emergency take such immediate action for the service or safety of the public or the protection of the property of the Mahapalika as the emergency shall require notwithstanding that such action cannot be taken under this Act without the sanction, approval or authority of some other municipal authority or of the State Government :

Provided that the Mukhya Nagar Adhikari shall report forthwith to the Executive Committee and to the Mahapalika the action taken by him and the reasons for taking the same and the amount of cost, if any, incurred or likely to be incurred in consequence of such action not already covered by a budget grant:

Provided further that the Mukhya Nagar Adhikari shall not exercise his powers under this clause if the expenditure likely to be incurred over and above the budget grant in taking the particular action will—

(*a*) exceed Rs.10,000 or, where the Nagar Pramukh concurs in the taking of that action, Rs.20,000; or

(*b*) together with any expenditure over and above the budget grant already incurred under this clause in the financial year, exceed Rs.50,000, or, where the Nagar Pramukh concurs in the taking of that action, Rs.1,00,000.

Powers and duties of Mukhya Nagar Lekha Parikshak

118. The Mukhya Nagar Lekha Parikshak shall—

(*a*) perform such duties as he is directed by or under this Act to perform and such other duties with regard to the audit of the accounts of the Mahapalika Fund as shall be required of him by the Mahapalika or by the Executive Committee ;

(*b*) prescribe, subject to such directions as the Executive Committee may from time to time give, the duties of the auditors and assistant auditors, clerks and servants immediately subordinate to him; and

(*c*) subject to the orders of the Executive Committee, exercise supervision and control over the acts and proceedings of the said auditors, assistant auditors, clerks and servants and, subject to the rules dispose of all questions relating to the service, remuneration and privileges of the said auditors, assistant auditors, clerks and servants.

Delegation of functions

119. (1) Subject to the other provisions of this Act and the rules thereunder and subject to such conditions and restrictions as may be specified by the Mahapalika—

(*a*) the Mahapalika may delegate to the Executive Committee or to the Mukhya Nagar Adhikari any of its functions under this Act other than those specified in Part A of Schedule I ;

(*b*) the Executive Committee may delegate to the Mukhya Nagar Adhikari any of its functions under this Act other than those specified in Part B of Schedule I ;

(*c*) the Development Committee may delegate to the Mukhya Nagar Adhikari any of its functions under this Act other than those specified in Part C of Schedule I ;

(*d*) the Mukhya Nagar Adhikari may delegate to any municipal servant any of its functions other than those specifiedin Part D of Schedule I:

Provided that the State Government may from time to time by notification in the official *Gazette* declare any function specified in Part A, Part B, Part C or Part D of Schedule I to be delegable or any function not specified therein to be non-delegable and upon such declaration that function may be delegated or shall cease to be delegable, as the case may be, as if it were not specified in Schedule I or were specified therein.

(2) Whenever there is delegation of functions by the Mukhya Nagar Adhikari, a copy of the order by which delegation is made shall be placed before the Executive Committee for information.

(3) Notwithstanding the delegation by the Mukhya Nagar Adhikari of any function under the Act under this section, the Mukhya Nagar Adhikari shall continue to be responsible for the due performance of the function.

Mukhya Nagar Adhikari to exercise powers and perform duties of Mahapalika under other laws

120. (1) Any powers, duties and functions conferred or imposed upon or vested in the Mahapalika by any other law for the time being in force shall, subject to the provisions of such law and to such restrictions, limitations and conditions as the Mahapalika may impose, be exercised, performed or discharged by the Mukhya Nagar Adhikari.

(2) The Mukhya Nagar Adhikari may, subject to any rules in that behalf, by order in writing of which a copy shall be placed before the Executive Committee for information empower any Mahapalika Officer other than the Mukhya Nagar Lekha Parikshak to exercise, perform or discharge any such power, duty or function under the control of the Mukhya Nagar Adhikari and subject to his revision and to such conditions and limitations, if any, as he may think fit to impose.

Mahapalika may call for extract from proceedings, etc. from the Executive Committee

121. The Mahapalika may at any time call for any extract from any proceedings of any Committee or sub-committee constituted under this Act, and call for a return, statement, account or report concerning or connected with any matter with which any such Committee or sub-committee as is empowered by or under this Act to deal, and every such requisition shall be complied with by the Committee or sub-committee, as the case may be, without unreasonable delay.

Power of the Mahapalika to require Mukhya Nagar Adhikari to produce documents and furnish returns, reports, etc.

122. (1) The Mahapalika or the Executive Committee may at any time require the Mukhya Nagar Adhikari—

(*a*) to produce any record, correspondence, plan or other document which is in his possession or under his control as Mukhya Nagar Adhikari or which is recorded on files in his office or in the office of any Mahapalika officer or servant subordinate to him ;

(*b*) to furnish any return, plan, estimate, statement, account or statistics concerning or connected with any matter appertaining to the administration of this Act or the municipal administration of the City ;

(*c*) to furnish a report by himself or to obtain from any officer subordinate to him and furnish, with his own remarks thereon, a report, upon any subject concerning or connected with the administration of this Act or the municipal administration of the City.

(2) The Mukhya Nagar Adhikari shall comply with every such requisition unless in his opinion immediate compliance therewith would be prejudicial to the interest of the Mahapalika or of the public, in which case he shall make a declaration in writing to that effect and shall if required by the Mahapalika or the Executive Committee refer the question to the Nagar Pramukh whose decision shall be final.

Exercise of powers to be subject to sanction by Mahapalika of the necessary expenditure

123. The exercise by any Mahapalika authority of any power conferred or the performance of any duty imposed by or under this Act which will involve expenditure shall, except where it is expressly provided otherwise by or under this Act, be subject to the conditions that—

(*a*) such expenditure, so far as it is to be incurred in the financial year in which such power is exercised or duty performed, is provided for under a budget grant, and

(*b*) if the exercise of such power or the performance of such duty involves or is likely to involve expenditure for any period or at any time after the close of the said financial year, the sanction of the Mahapalika is taken before the liability for such expenditure is incurred.

124. (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter. Power to make rules

(2) Without prejudice to the generality of the foregoing power such rules may provide for—

(*a*) the manner of approval of the description and position of boundary marks under clause (i) of section 114 ;

(*b*) the manner and the procedure relating to the discharge of duties or fulfilment of obligations referred to in sections 114 and 115, in cases for which no specific provision has been made in the Act ;

(*c*) the procedure relating to the exercise of powers of superintendence by the Executive Committee of the municipal administration of the City ;

(*d*) the manner in which the executive powers shall be exercised by the Mukhya Nagar Adhikari;

(*e*) the matters relating to the duties, supervision and control of the Mahapalika Officers and servants referred to in clause (*a*) of sub-section (6) of section 117 ;

(*f*) the decision of doubts and disputes about functions of officers and servants subordinate to the Mukhya Nagar Adhikari;

(*g*) the matters relating to the delegation of powers of the Mukhya Nagar Adhikari to any other officer under section 119 and sub-section (2) of section 120 ;

(*h*) the procedure relating to the delegation of his powers by the Mukhya Nagar Adhikari under sub-section (2) of section 120 ;

(*i*) the manner in which requisition for production of extracts from proceedings or other documents or papers, etc., shall be made under sections 121 and 122 ;

(*j*) the procedure relating to the compliance of such requisition:

(*k*) the manner in which the question regarding production of documents or other papers under sub-section (1) of section 122 shall be referred to the Nagar Pramukh for final decision ;

(*l*) the manner in which declaration of the Mukhya Nagar Adhikari under sub-section (2) of section 122 shall be communicated to the Mahapalika;

(*m*) the guidance generally of the Mahapalika or the Mukhya Nagar Adhikari in any matter connected with the discharge of their duties or performance of their functions or exercise of their powers under this Chapter, and

(*n*) the matters which are to be or may be prescribed under this Chapter.

CHAPTER VI

PROPERTY AND CONTRACTS

Powers of Mahapalika as to acquisition and holding of property

125. (1) The Mahapalika shall, for the purposes of this Act, have power to acquire, hold and dispose of property or any interest therein whether within or without the limits of the City.

(2) All property and interests in property acquired by the Mahapalika shall vest in the Mahapalika for the purposes of this Act and subject to its provisions.

(3) Any immovable property which may be transferred to the Mahapalika by the Government shall be held by it, subject to such conditions including resumption by the Government on the occurrence of a specified contingency and shall be applied to such purposes as the Government may impose or specify while making the transfer.

Succession to property, assets, rights, liabilities and obligations in certain cases

126. (1) As from the appointed day—

(*a*) all property, interests in property and assets including cash balances, wherever situate which immediately before such day were vested in any Municipal Board, Improvement Trust or other local authority established for the area included in the City or any part of such area or in any local authority having jurisdiction both within and outside such area shall, unless otherwise directed by the State Government, vest in and be held by the Mahapalika of such City, for the purposes of this Act, and

(*b*) all rights, liabilities and obligations of the aforesaid Municipal Board, Improvement Trust or other local authority whether arising out of any contract or otherwise, existing immediately before such day shall be the rights, liabilities and obligations of such Mahapalika.

(2) Where any doubt or dispute arises as to whether any property, interest or asset has vested in a Mahapalika under sub-section (1) or any rights, liabilities or obligations have become the rights, liabilities or obligations of a Mahapalika such doubt or dispute shall be referred by the Mukhya Nagar Adhikari to the State Government whose decision shall unless superseded by any decision of a court of law be final.

Certain provisions governing acquisition of property

127. (1) All acquisitions of property shall be made by the Mukhya Nagar Adhikari on behalf of the Mahapalika.

(2) Wherever it is provided that the Mukhya Nagar Adhikari may acquire or wherever it is necessary or expedient for any purpose of this Act that the Mukhya Nagar Adhikari shall

acquire any movable or immovable property within or without the City or any interest in such property, the same may be acquired by the Mukhya Nagar Adhikari, whether by agreement or otherwise:

Provided that—

(*a*) the Mukhya Nagar Adhikari shall be bound by any resolution of the Executive Committee fixing terms, rates or maximum prices for a particular case or for any class of cases ;

(*b*) the sanction of the Executive Committee shall be required—

(i) for the compulsory acquisition of any property,

(ii) for the exchange of any immovable property,

(iii) for the taking of any property on lease for a term exceeding twelve months, or

(iv) for the acceptance of any gift or bequest of property burdened by an obligation, and

(*c*) the sanction of the Mahapalika shall be required—

(i) for the acceptance or acquisition of any immovable property, if the value of the property which it is proposed to accept, acquire or give in exchange, exceeds five thousand rupees,

(ii) for the taking of any property on lease for a term exceeding three years, or

(iii) for the acceptance of any gift or bequest or property burdened by an obligation if the value of such property exceeds five thousand rupees.

Power to dispose of property

128. (1) The Mahapalika shall, for the purposes of this Act, and subject to the provisions thereof and rules made thereunder, have power to sell, let on hire, lease, exchange, mortgage, grant or otherwise dispose of any property or any interest therein acquired by or vested in the Mahapalika under this Act :

Provided that no property transferred to the Mahapalika by the Government shall be sold, let on hire, exchanged or mortgaged or otherwise conveyed in any manner contrary to the terms of the transfer except with the prior sanction of the State Government.

Provisions governing disposal of property

129. With respect to the disposal of property belonging to the Mahapalika the following provision shall have effect, namely:

(1) Every disposal of property belonging to the Mahapalika shall be made by the Mukhya Nagar Adhikari on behalf of the Mahapalika.

(2) The Mukhya Nagar Adhikari may, in his discretion, dispose of by sale, letting out on hire or otherwise, any movable property belonging to the Mahapalika not exceeding in value in each instance five hundred rupees or such higher amount as the Mahapalika may, with the approval of the State Government, from time to time determine, or grant a lease of any immovable property belonging to the Mahapalika including any right of fishing or of gathering and taking fruit, and the like, for any period not exceeding twelve months at a time:

Provided that the Mukhya Nagar Adhikari shall report to the Executive Committee every lease of immovable property within fifteen days of the grant thereof unless it is a contract for a monthly tenancy or the annual rent thereof does not exceed three thousand rupees.

(3) The Mukhya Nagar Adhikari may with the sanction of the Executive Committee dispose of by sale, letting out on hire or otherwise any movable property belonging to the Mahapalika, of which the value does not exceed five thousand rupees; and may with the like sanction grant a lease of any immovable property belonging to the Mahapalika, including any such right as aforesaid, for any period exceeding one year or sell or grant a lease in perpetuity of any immovable property belonging to the Mahapalika the value or premium whereof does not exceed fifty thousand rupees or the annual rental whereof does not exceed three thousand rupees.

(4) The Mukhya Nagar Adhikari may with the sanction of the Mahapalika lease, sell, let out on hire or otherwise convey any property, movable or immovable, belonging to the Mahapalika.

(5) Except in the case of transfers for educational and charitable purposes the consideration for which any immovable property or any right belonging to the Mahapalika may be sold, leased or otherwise transferred shall not be less than the current market value of such premium, rent or other consideration.

(6) The sanction of the Executive Committee or of the Mahapalika under sub-section (3) or sub-section (4) may be given either generally or any class of cases or specially in any particular case.

(7) The aforesaid provisions of this section and the provisions of the rules shall apply to every disposal of property belonging to the Mahapalika made under or for any purposes of this Act.

Procedure when immovable property cannot be acquired by agreement

130. (1) Whenever the Mukhya Nagar Adhikari is unable under section 127 to acquire by agreement any immovable property or any easement affecting any immovable property vested in the Mahapalika or whenever any immovable property or any easement affecting any immovable property vested in the Mahapalika is required for the purposes of this Act, the State Government may, in its discretion, upon the application of the Mukhya Nagar Adhikari, made with the approval of the Executive Committee and subject to the other provisions of this Act, order proceedings to be taken for acquiring the same on behalf of the Mahapalika, as if such property or easement were land needed for a public purpose within the meaning of the Land Acquisition Act, 1894 or other law which may be applicable to the case.

(2) Whenever an application is made under sub-section (1) for the acquisition of land for the purpose of providing a new street or for widening or improving an existing street it shall be lawful for the Mukhya Nagar Adhikari to apply for the acquisition of such additional land immediately adjoining the land to be occupied by such new street or existing street as is required for the sites of buildings to be erected on either side of the street, and such additional land shall be deemed to be required for the purposes of this Act.

(3) This section does not apply to the acquisition under Chapter XIV.

Power of Mahapalika to the making of contracts

131. Subject to the provisions of this Act, the Mahapalika shall have power to enter into contracts which may be necessary or expedient under or for any purposes of this Act.

Certain provisions relating to the execution of contracts

132. (1) All contracts referred to in section 131 including contracts relating to the acquisition and disposal of immovable property or any interest therein made in connexion with the affairs of the Mahapalika under this Act, shall be expressed to be made, for and on behalf of the Mahapalika, and all such contracts and all assurances of property made in exercise of that power shall be executed, for and on behalf of the Mahapalika, by the Mukhya Nagar Adhikari or by such other officer of the Mahapalika as may be authorized in writing by the Mukhya Nagar Adhikari either generally or for any particular case or class of cases.

(2) No contract for any purpose, which in accordance with any provisions of this Act or any rules made thereunder the Mukhya Nagar Adhikari may not carry out without the sanction of one of the other Mahapalika authorities, shall be made by him unless such sanction has been given.

(3) No contract involving an expenditure exceeding ten thousand rupees and not exceeding fifty thousand rupees shall be made by the Mukhya Nagar Adhikari unless it has been sanctioned by the Executive Committee.

(4) No contract involving an expenditure exceeding fifty thousand rupees shall be made by the Mukhya Nagar Adhikari unless it has been sanctioned by the Mahapalika.

(5) Every contract made by the Mukhya Nagar Adhikari involving an expenditure exceeding one thousand rupees and not exceeding ten thousand rupees shall be reported to the Executive Committee within fifteen days after it has been made.

(6) The foregoing provisions of this section shall apply to every variation or discharge of a contract as well as to an original contract.

Manner of execution.

133. (1) Every contract entered into by the Mukhya Nagar Adhikari on behalf of the Mahapalika shall be entered into in such manner and form as would bind him if it were made on his own behalf and may in like manner and form be varied or discharged :

Provided that—

(*a*) the common seal of the Mahapalika shall be affixed to every contract which, if made between private persons, would require to be under seal, and

(*b*) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding two thousand and five hundred rupees shall be in writing, shall be sealed with the seal of the Mahapalika and shall specify—

(i) the work to be done or the materials or goods to be supplied as the case may be ;

(ii) the price to be paid for such work, materials, or goods ; and

(iii) the time or times within which the contract or specified portion thereof shall be carried out.

(2) The common seal of the Mahapalika shall remain in the custody of the Mukhya Nagar Adhikari and shall not be affixed to any contract or other instrument except in the presence of a Sabhasad or a Vishishta sadasya, who shall attach his signature to the contract or instrument in token that the same was sealed in his presence.

(3) The signature of the said Sabhasad or a Vishishta Sadasya shall be distinct from the signature of any witness to the execution of such contract or instrument.

(4) No contract executed otherwise than as provided in this section shall be binding on the Mahapalika.

Execution of works

134. The Mahapalika may determine either generally for any class of cases or specially for any particular case whether the Mukhya Nagar Adhikari shall execute the work by a contract or otherwise.

135. The Mukhya Nagar Adhikari may sanction any estimate the amount of which does not exceed fifty thousand rupees :

Estimates not exceeding rupees fifty thousand

Provided that if the amount of the estimate exceeds ten thousand rupees, the sanction of the Executive Committee shall also be required.

136. (1) Where a project is framed for the execution of any work or series of works the entire estimated cost of which exceeds fifty thousand rupees—

Estimates exceeding rupees fifty thousand

(*a*) the Mukhya Nagar Adhikari shall cause a detailed report to be prepared including such estimates and drawings as may be requisite and forward the same to the Executive Committee who shall submit the same before the Mahapalika with its suggestions if any;

(*b*) the Mahapalika shall consider the report and the suggestions and may reject the project or may approve it either in its entirety or subject to modifications.

(2) (*a*) Where the Mahapalika approves the project and the entire estimated cost exceeds five lakhs of rupees, the report, subject to any modifications as aforesaid, shall be submitted to the State Government.

(*b*) The State Government may reject the project or may sanction it either in its entirety or subject to modifications.

(*c*) The work shall not be commenced before the project has been sanctioned by the State Government with or without modifications.

(*d*) No material change in the project sanctioned as aforesaid shall be carried into effect without the sanction of the State Government.

Explanation—In this section and in section 135 the expression "estimate" means the total estimate for the whole of a project including the whole of the series of transactions constituting the project.

137. A covenant concerning any immovable property for the purposes of this Act entered into with the Mahapalika by the owner of such property or by any person to whom such property of the Mahapalika has been transferred by sale or exchange shall be enforceable by the Mahapalika against any person deriving title under the covenantor notwithstanding that the Mahapalika is not in possession of, or interested in, any immovable property for the benefit of which the covenant was entered into, in the like manner and to the like extent as if it had been possessed of or interested in such property.

Powers of Mahapalika to enforce covenants against owner for the time being of land

138. (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

Power to make rules

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for—

(*a*) the procedure for ascertaining the property and assets to be vested in the Mahapalika under clause (*a*) of sub-section (1) of section 126 ;

(*b*) the procedure for ascertaining the rights, liabilities and obligations of the Mahapalika under clause (*b*) of sub-section (1) of section 126 ;

(*c*) the procedure in general for the purchase or acquisition of the property, for and on behalf of the Mahapalika, or sale, lease, hire, exchange, grant or disposal of the property vested in or acquired by the Mahapalika ;

(*d*) the terms and the rates at which any immovable property may be purchased or acquired by agreement for the Mahapalika ;

(*e*) the payment of the expenses and the compensation awarded and other charges incurred for the compulsory acquisition of property for and on behalf of the Mahapalika ;

(*f*) the procedure relating to entering into contracts ;

(*g*) the manner in which contracts may be executed ;

(*h*) the security to be demanded for the due performance of contracts ;

(*i*) the preparation and sanctioning of detailed plans and estimates for works and the calling, examination and acceptance of tenders;

(*j*) the execution of works and conditions of sanction ;

(*k*) the matters which are to be or may be prescribed.

CHAPTER VII

MAHAPALIKA AND OTHER FUNDS

Constitution of Mahapalika and other funds.

139. (1) There shall be established a Fund for each Mahapalika, hereinafter called the Mahapalika Fund, and, subject to the provisions of this Act and the rules made thereunder, there shall be placed at the credit thereof all moneys received by or on behalf of the Mahapalika under this Act or any other law, or contract, including—

(*a*) the proceeds of the property of the Mahapalika ;

(*b*) the rents of the property of the Mahapalika ;

(*c*) the proceeds of all taxes or fees and fines (other than fines imposed by a court), levied by or under this Act ;

(*d*) all moneys received by way of compensation or for compounding offences under the provisions of this Act ;

(*e*) all interest and profits arising from any investment of, or from any transaction in connexion with, any money belonging to the Mahpalika ;

(*f*) all moneys received by or on behalf of the Mahapalika from the Government or public bodies, private bodies or other persons by way of grant, gift or deposit, subject, however, to the conditions, if any, attached to such grant, gift or deposit.

(2) All moneys payable to the credit of the Mahapalika Fund shall be received by the Mukhya Nagar Adhikari and shall forthwith be paid into the State Bank of India or such other scheduled bank or banks as the Mahapalika may with the previous sanction of the State Government, appoint, to the credit of an account which shall be styled "the account of the Mahapalika Fund of ":

Provided that the Mukhya Nagar Adhikari may, subject to any general or special directions issued by the Executive Committee, retain such balances in cash as may be necessary for current payments.

(3) The Mahapalika may also constitute such special funds as may be prescribed and such other funds as may be necessary for the purposes of this Act. The constitution and disposal of such funds shall be effected in the manner prescribed.

Purposes for which Mahapalika Fund is to be applied.

140. The moneys from time to time credited to the Mahapalika fund shall be applied in the following order of preference :

Firstly, in making due provision for the repayment of all loans payable by the Mahapalika under the provisions of Chapter VIII ;

Secondly, in discharge of all liabilities imposed on the Mahapalika by clause (*b*) of sub-section (1) of section 126;

Thirdly, in payment of all sums, charges and costs necessary for the purposes specified in sections 114 and 115, and for otherwise carrying this Act into effect, or of which the payment shall be duly sanctioned under any of the provisions of this Act inclusive of—

(*a*) the cost of auditing the Mahapalika accounts;

(*b*) the expenses of every election held under this Act;

(*c*) the salaries, allowances and contributions to pensions and leave salaries of the Mukhya Nagar Adhikari and of any other officer whose services may at the request of the Mahapalika be placed by the State Government at the disposal of the Mahapalika;

(*d*) the salaries and allowances of Mahapalika officers and servants, and all pensions, gratuities, contributions and compassionate allowances payable under the provisions of this Act;

(*e*) the salaries and fees of experts for service or advice in connexion with any matter arising out of the administration or undertaking of the Mahapalika;

(*f*) all expenses and costs incurred by the Mahapalika or by any Mahapalika officer on behalf of the Mahapalika in the exercise of any power conferred, or the discharge of any duty imposed on it or them by this Act, including moneys which the Mahapalika is required or empowered to pay by way of compensation;

(*g*) every sum payable—

(i) by order of the State Government or under an award made under the Arbitration Act, 1940, or a decree or order of a civil court, as the case may be;

(ii) under a decree or order of a civil or criminal court passed against the Mukhya Nagar Adhikari;

(iii) under a compromise of any suit or other legal proceeding or claim;

(*h*) contributions to public institutions which the State Government may, after consulting the Mahapalika, declare to be in the interest of the inhabitants of the City.

Temporary payments from Mahapalika Fund for works urgently required for public service

141. (1) On the written requisition of the State Government or the Prescribed Authority the Mukhya Nagar Adhikari may at any time undertake the execution of any work certified by the State Government or such authority as the case may be, to be urgently required for a work of public utility and for this purpose may make payments from the Mahapalika Fund so far as the same can be made without unduly interfering with the regular working of the municipal administration.

(2) On receipt of requisition under sub-section (1) the Mukhya Nagar Adhikari shall forthwith forward a copy thereof to the Mahapalika together with a report of the action taken by him thereon for its information.

(3) The cost of all work executed under sub-section (1) and of the establishment engaged in executing the same shall be paid by the State Government and credited to the Mahapalika Fund.

Maintenance and audit of accounts

142. (1) The account of the receipt and expenditure of the Mahapalika shall be maintained in such manner as may be prescribed.

(2) The Mukhya Nagar Lekha Parikshak shall conduct a monthly examination and audit of the Mahapalika accounts and shall within a month report thereon to the Executive Committee who shall publish monthly an abstract of the receipts and expenditure of the month last preceding, signed by not less than two members of that committee and by the Mukhya Nagar Lekha Parikshak.

(3) The Executive Committee may also from time to time and for such period as they think fit conduct independently an examination and audit of the Mahapalika accounts.

Special Audit

143. The State Government may at any time direct special examination and audit of Mahapalika accounts for such period as they think fit by auditors appointed by the State Government in that behalf and a report of such examination and audit shall be submitted by the said auditors to the State Government.

Auditors to have access to all the Mahapalika accounts and to all records, etc

144. (1) For the purposes of examination and audit of accounts under section 142 or 143 the Mukhya Nagar Lekha Parikshak and the auditors appointed under section 143 shall have access to all the Mahapalika accounts and to all records and correspondence relating thereto and the Mukhya Nagar Adhikari shall forthwith furnish to the said auditors or to the Executive Committee any explanation concerning receipts and disposal which they may call for.

(2) All charges, fees and expenses necessary for the examination and audit of accounts under these sections shall be paid by the Mahapalika.

Preparation of annual administration report and statement of accounts

145. (1) The Mukhya Nagar Adhikari shall, as soon as may be after the first day of April in each year, have prepared a detailed report of the Mahapalika administration of the City, during the previous official year, together with a statement showing the accounts of the receipts and disbursements credited and debited to the Mahapalika Fund during the said year and the balance at the credit of the Fund at the close of the said year and shall submit the same to the Executive Committee.

(2) The report shall be in such form and shall contain such information as the Executive Committee may from time to time direct.

(3) The Executive Committee shall then examine the report and the statement, and a copy of the said statement together with a copy of the Committee's review shall be forwarded to the State Government and to each member and copies thereof shall also be placed on sale at the Mahapalika office.

Budget

146. (1) The Mukhya Nagar Adhikari shall on or before the tenth day of December each year in the case of indebted Mahapalikas and tenth day of January each year in the case of other Mahapalikas cause to be prepared and laid before the Executive Committee in such form as may be prescribed and in such manner as the Executive Committee may approve budget estimates of the income and expenditure of the Mahapalika Fund for the next financial year.

(2) Such estimates shall—

(*a*) take into account loans and grants from Government ;

(*b*) provide for the repayment of all loans including loans taken from Government with interest due thereon, for the repayment of which the Mahapalika is liable;

(*c*) provide for the discharge of liabilities imposed on the Mahapalika by clause (*b*) of sub-section (1) of section 126 ;

(*d*) provide for the payment in convenient instalments or lump sum from the Mahapalika fund of an amount equal to the grant assigned for education ;

(*e*) allow for a cash balance at the end of the said year of not less than such sum as may be prescribed by the State Government;

(*f*) provide for a sum of money not exceeding five thousand rupees to be spent by the Nagar Pramukh in his discretion on any one or more of the matters specified in section 114 or 115.

(3) The Executive Committee shall, on or as soon as may be after the tenth day of December or January, as the case may be, consider the budget estimates prepared by the Mukhya Nagar Adhikari and make such modifications thereto as it shall think fit and submit the same to the Mahapalika not later than the fifteenth day of January following in the case of indebted Mahapalikas and the fifteenth day of February in other cases.

(4) The Mahapalika shall finally adopt the budget estimates before March 1, if it is an indebted Mahapalika and before the beginning of the year to which they relate if it is not an indebted Mahapalika and shall forthwith submit copies thereof to the State Government :

Provided that if for any reason the Mahapalika has not finally adopted the budget estimates before the commencement of the financial year to which they relate, the budget estimates as prepared by the Mukhya Nagar Adhikari or if the Executive Committee has submitted budget estimates under sub-section (3), such budget estimates shall be deemed to be the budget estimates for that year until action has been taken by the Mahapalika :

Provided further that in the case of an indebted Mahapalika the adoption of budget estimates under this sub-section shall be subject to confirmation by the State Government.

Revised Budget Estimates

147. As soon as may be after the first day of September if it is an indebted Mahapalika and the first day of October if it is not an indebted Mahapalika revised budget estimates for the year shall be adopted by the Mahapalika and the revised estimates shall, as far as may be, but subject to the modifications mentioned herein, be subject to all the provisions of section 146.

Modifications:

(i) In sub-sections (1) and (3) of section 146 for "tenth day of December" and "tenth day of January" "tenth day of August" and "tenth day of September", shall respectively be deemed to be substituted ;

(ii) In sub-section (3) of section 146 for "fifteenth day of January" and "fifteenth day of February", "fifteenth day of August" and "fifteenth day of September" shall respectively be deemed to be substituted, and

(iii) For the first proviso at the end of the section the following proviso shall be deemed to be substituted:

"Provided that as long as the Mahapalika has not adopted the revised budget estimates the budget estimates in force under the provisions of this Act on the first day of October of the year in question shall subject to the provisions of sections 149 and 151 remain the budget estimates for the year".

Determination of rates of taxes

148. The Mahapalika shall, on or before February 15 if it is an indebted Mahapalika but on or before March 15 otherwise, after considering the proposal of the Executive Committee, determine, subject to the limitations and conditions prescribed in Chapter IX the rates at which Mahapalika taxes referred to in sub-section (1) of section 172 shall be levied in the next ensuing financial year.

Mahapalika may increase amount of budget grants and make additional grants

149. (1) On the recommendation of the Executive Committee the Mahapalika may, from time to time during a financial year, increase the amount of any budget grant, or make an additional budget grant for the purpose of meeting any special or unforeseen requirement arising during the said year, but not so that the estimated cash balance at the close of the year exclusive of the balance if any, of any special fund shall be reduced below the amount prescribed under clause (*e*) of sub-section (2) of section 146 or such higher amount as may have been fixed for the time being in this behalf by the Mahapalika in the case of either the Mahapalika Fund or other special funds.

(2) Such increased or additional budget grants shall be deemed to be included in the budget estimates approved by the Mahapalika for the year in which they are made.

(3) Reductions in and transfers from one budget head to another or within a budget head shall be made in accordance with the rules by the Executive Committee.

Restrictions on expenditure from Mahapalika fund

150. Except as may be provided by rules in this behalf, no expenditure shall be incurred or payment made of any sum out of the Mahapalika Fund unless the same is covered by a current budget grant, and sufficient balance of such budget grant is still available, notwithstanding any reduction or transfer thereof which may have been made in accordance with the provisions of sub-section (3) of section 149.

Alteration in budget estimates

151. The Mahapalika may vary or alter from time to time as circumstances may render desirable, the budget estimates adopted under section 146 or section 147:

Provided that in the case of an indebted Mahapalika every variation or alteration under this section shall be subject to confirmation by the State Government.

Indebted Mahapalika

152. Where in the opinion of the State Government the condition of indebtedness of any Mahapalika is such as to make the control of the State Government over its budget desirable, the State Government may by order notified in the official *Gazette* declare that such is the case and such Mahapalika shall for the purposes of this Act be deemed to be an indebted Mahapalika.

Power to make rules

153. The State Government may make rules to carry out all or any of the purposes of this Chapter, and in particular, without affecting the generality of the power conferred hereby, make rules for the following purposes—

(*a*) receiving of payments by the Mukhya Nagar Adhikari to the account of the Mahapalika Fund and lodging of the moneys received in a bank or banks ;

(*b*) operation of the funds of the Mahapalika ;

(*c*) deposit of portion of Mahapalika Fund with bank or agency outside the City ;

(*d*) investment of surplus moneys ;

(*e*) the accounts to be kept by the Mahapalika, the manner in which accounts shall be audited and published and the power of auditors in respect of disallowance and surcharge ;

(*f*) reductions in or transfers from one budget head to another or within a budget head ;

(*g*) preparation of annual administration report and statement of accounts ;

(*h*) manner of keeping of Mahapalika accounts.

CHAPTER VIII

BORROWING POWERS

Powers of Mahapalika to borrow money

154. (1) The Mahapalika may, with the previous sanction of the State Government and subject to the provisions of section 31 of the Reserve Bank of India Act, 1934 from time to time, borrow or reborrow and take up at interest by the issue of debentures or otherwise on the security of any immovable property vested in the Mahapalika or proposed to be acquired by it under this Act or of all or any taxes, duties, tolls, cesses, fees and dues which it is authorized to levy for the purposes of this Act, or of all or any of those securities, any sum necessary for the purpose of—

(*a*) defraying any costs, charges or expenses, incurred by it in the execution of this Act ;

(*b*) for discharging any loan contracted under this Act or any other loan or debt for the repayment of which the Mahapalika is liable ;

(*c*) generally for carrying out the purposes of this Act, including the advance of loans authorized thereunder:

Provided that—

(i) no loan shall be raised for the execution of any work other than a permanent work which expression shall include any work of which the cost should, in the opinion of the State Government, be spread over a term of years ;

(ii) no loan shall be raised unless the State Government has approved the purpose and amount of the loan, the rate of interest and other terms thereof including the date of flotation and the period and method of repayment;

(iii) the period within which the loan is to be repaid shall in no case exceed thirty years.

(2) When any sum of money has been borrowed or reborrowed under sub-section (1)—

(*a*) no portion thereof shall without the previous sanction of the State Government, be applied to any purpose other than that for which it was borrowed ; and

(*b*) no portion of any sum of money borrowed or reborrowed for the execution of any work shall be applied to the payment of salaries or allowances of any Mahapalika officer or servant other than those who are exclusively employed upon the work for the construction of which the money was borrowed, or for meeting expenditure of recurring nature:

Provided that such share of the cost on account of the salaries and allowances of Mahapalika officers or servants employed in part upon the preparation of plans and estimates or the construction or supervision of or upon the maintenance of the accounts of such work as the Executive Committee may fix may be paid out of the sum so borrowed or reborrowed.

Power of Mahapalika to borrow from banks against public securities

155. Notwithstanding anything contained in section 154 but subject to the provisions of section 31 of the Reserve Bank of India Act, 1934 the Mahapalika may borrow for the purposes of this Act from any bank or banks in which the surplus moneys at the credit of the Mahapalika Fund may be deposited, against any public securities in which for the time being the cash balance of the Mahapalika may be invested :

Provided that in the case of an indebted Mahapalika, borrowing under this section shall be made with the previous approval of the State Government.

When and how loan should be repaid

156. (1) Every loan raised under section 154 shall be repaid within the time approved therefor under the said section and by such of the following methods as may be approved under the said provision, namely—

(*a*) by payment from a sinking fund established under section 157 in respect of the loan ;

(*b*) by equal payments of principal and interest ;

(*c*) from any sum borrowed for the purpose under clause (*b*) of sub-section (1) of section 154 ;

(*d*) partly from a sinking fund established under section 157 in respect of the loan and partly from money borrowed for the purpose under clause (*b*) of sub-section (1) of section 154 ;

(*e*) by such other method including drawings as the State Government may specify.

(2) In the case of a loan borrowed before the appointed day, repayment shall normally be made by the method which was in operation for the repayment of such loan or if there was no such method, by any of the methods specified in sub-section (1).

Maintenance and application of sinking fund

157. (1) Whenever the repayment of a loan from a sinking fund has been sanctioned under proviso (ii) to sub-section (1) of section 154, the Mahapalika shall establish such a fund and shall pay into it, on such dates as may have been approved under the said proviso, such sum as will, with accumulations of compound interest, be sufficient after payment of all expenses to pay off the loan within the period approved :

Provided that if at any time the sum standing to the credit of the sinking fund established for the repayment of any loan is of such amount that, if allowed to accumulate at compound interest it will be sufficient to repay the loan within the period approved, then with the permission of the State Government further payments into such fund may be discontinued.

(2) The Mahapalika may apply a sinking fund, or any part thereof, in or towards the discharge of the loan for which such fund is established, and, until such loan or part is wholly discharged, shall not apply the same for any other purpose.

Investment of sinking fund

158. (1) All moneys paid into a sinking fund shall, as soon as possible, be invested by the Mahapalika in the name of the Mukhya Nagar Adhikari—

(*a*) in Government securities, or

(*b*) in securities guaranteed by Government, or

(*c*) in debentures of the Mahapalika,

and shall be held by the Mahapalika for the purpose of repaying from time to time the debentures issued by it.

(2) All dividends, interest and other sums received in respect of any such investment shall, as soon as possible afte r receipt, be paid into the appropriate sinking fund and invested in the manner prescribed by sub-section (1).

(3) Money standing to the credit of two or more sinking funds may, at the discretion of the Mahapalika be invested in a common fund, and it shall not be necessary for the Mahapalika to allocate the securities held in such investments among the several sinking funds.

(4) When any part ot sinking fund is invested in the debentures of the Mahapalika or is applied to paying of any part of a loan before the period fixed for repayment, the interest which would, otherwise have been payable on such debentures or on such part of the loan, shall be paid into the sinking fund and invested in the manner laid down in sub-section (1).

(5) Any investment made under this section may, subject to the provisions of sub-section (1), be varied or transposed :

Provided that whenever any transposition is made the sinking fund from which any part is transposed shall be increased by a sum equal to the sum transposed.

(6) During the year in which the loan for the repayment of which a sinking fund is established is due for repayment, the sum to be set apart as portion of the principal of such sinking fund and the sum received on account of interest on moneys forming part of such sinking fund may be retained by the Mahapalika in such form as it thinks fit.

Investment of sinking fund and surplus moneys in debentures issued by Mahapalika

159. (1) In respect of any sinking funds which by this Act the Mahapalika is directed or authorized to invest in public securities and in respect of any surplus moneys which by this Act the Mukhya Nagar Adhikari on behalf of the Mahapalika is empowered to invest in the securities, it shall be lawful for the Mahapalika to reserve and set apart for the purpose of any such investment, any debentures issued or to be issued on account of any loan for which the sanction of the State Government shall have been duly obtained :

Provided that the intention so to reserve and set apart such debentures shall have been notified to the State Government as a condition of the issue of the loan.

(2) The issue of any such debentures direct to and in the name of the Mukhya Nagar Adhikari on behalf of the Mahapalika shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to and in the name of any other person.

(3) The purchase by, or the transfer, assignment or endorsement to, the Mahapalika or to the Mukhya Nagar Adhikari of any debenture issued by the Mahapalika shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed, to any other person.

Annual examination of sinking funds

160. (1) All sinking funds established or maintained under this Act shall be subject to annual examination by the Examiner, Local Fund Accounts, who shall ascertain whether the cash and the value of the securities belonging thereto are actually equal to the amount which should be at the credit of such funds had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

(2) The amount which should be at the credit of a sinking fund shall be calculated on the basis of the present value of all future payments required to be made to such fund under the provisions of this Act, on the assumption that all investments are regularly made and the rate of interest as originally estimated is obtained therefrom.

(3) The securities belonging to a sinking fund shall be valued for the purposes of this section at their current market value, except in the case of debentures issued under this Act which will be valued at par, provided that the Mahapalika shall make good immediately any loss which may accrue on the actual sale of such debentures at the time of repayment of the loan.

(4) The Mahapalika shall forthwith pay into any sinking fund any amount which the Examiner, Local Fund Accounts may certify to be deficient, unless the State Government specially sanctions a gradual re-adjustment.

(5) If the cash and the value of the securities at the credit of any sinking fund are in excess of the amount which should be at its credit, the Examiner, Local Fund Accounts shall certify the amount of such excess sum and the Mahapalika may thereupon transfer the excess sum to the Mahapalika Funds.

(6) If any dispute arises as to the accuracy of any certificate made by the Examiner, Local Fund Accounts under sub-section (4) or (5) the Mahapalika may, after making the payment or transfer, refer the matter to the State Government whose decision shall be final.

Attachment of Mahapalika Fund in default of repayment of loan

161. (1) If any money borrowed by the Mahapalika or any interest or costs due in respect thereof are not repaid according to the conditions of the loan, the State Government, if it has itself given the loan, may, and in other cases shall, on the

application of the lender after considering the explanation of the Mahapalika, if any, attach the Mahapalika Fund or a portion of the Mahapalika Fund.

(2) After such attachment no person, except an officer appointed in this behalf by the State Government shall in any way deal with the attached fund or portion thereof but such officer may do all acts in respect thereof which any Mahapalika authority, officer or servant might have done if such attachment had not taken place and may apply the proceeds in satisfaction of the arrears and of all interest and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the Fund or portion thereof attached was previously pledged in accordance with law, and all such prior charges shall be paid out of the proceeds of the Fund or portion thereof before any part of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made.

Form of debentures

162. (1) Debentures issued under this Act shall be in such form as the Mahapalika may with the previous sanction of the State Government from time to time determine.

(2) The holder of any debenture in any form duly authorized under sub-section (1) may obtain in exchange therefor, upon such terms as the Mahapalika shall from time to time determine, a debenture in any other form so authorized.

(3) Every debenture issued by the Mahapalika under this Act shall be transferable by endorsement.

(4) The right to payment of the moneys secured by any of such debentures and to sue in respect thereof shall vest in the holder for the time being without any preference by reason of some of such debentures being prior in date to others.

Coupons attached to debentures to bea signature of Chai man of Executiv Committee and Mukhya Nagar Adhikari

163. All coupons attached to debentures issued under this Act shall be signed by the Chairman of the Executive Committee and the Mukhya Nagar Adhikari on behalf of the Mahapalika and such signatures may be engraved, lithographed or impressed by any mechanical process.

Debentures issue to two or mor persons jointly

164. Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872—

(1) Where any debenture or security issued under this Act is payable to two or more persons jointly, and either or any of them dies, the debenture or security shall be payable to the survivor or survivors of such persons:

Provided that nothing in this sub-section shall affect any claim by the legal representative of a deceased person against such survivor or survivors.

(2) When two or more persons are joint holders of any debenture or security issued under this Act, any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security unless notice to the contrary has been given to the Mahapalika by any other of such persons.

Issue of duplicate securities

165. (1) When a debenture issued under this Act is alleged to have been lost, stolen or destroyed either wholly or in part or has been defaced or mutilated and a person claims to be the person to whom but for the loss, theft, destruction, defacement or mutilation it would be payable, he may, on application to the Mukhya Nagar Adhikari, and on producing proof of his satisfaction of the loss, theft, destruction, defacement or mutilation and of the justice of the claim, obtain from him an order—

(*a*) if the debenture alleged to have been lost, stolen, destroyed, defaced or mutilated is payable more than six years after the date of publication of the notification referred to in sub-section (2)—

(i) for the payment of interest in respect of the debenture pending the issue of a duplicate debenture; and

(ii) for the issue of a duplicate debenture payable to the applicant, or

(*b*) if the debenture alleged to have been lost, stolen, destroyed, defaced or mutilated is payable not more than six years after the date of publication of the notification referred to in sub-section (2)—

(i) for the payment of interest in respect of the debenture without the issue of a duplicate debenture, and

(ii) for the payment to the applicant of the principal sum due in respect of the debenture on or after the date on which the payment becomes due.

(2) An order shall not be passed under sub-section (1) until after the issue of such notification of the loss, theft, destruction, defacement or mutilation of the debenture as may be prescribed by the Mahapalika, and after the expiration of such period as may be prescribed by the Mahapalika nor until the applicant has given such indemnity as may be required by the Mahapalika against the claims of all persons deriving title under the debenture lost, stolen, destroyed, defaced or mutilated.

(3) A list of the debentures in respect of which an order is passed under sub-section (1) shall be published in the official *Gazette.*

(4) If at any time before the Mahapalika becomes discharged under the provisions of section 168 from liability in respect of any debenture the whole of which is allgeed to have been lost, stolen, destroyed, defaced or mutilated, such debenture is found, any order passed in respect thereof under this section shall be cancelled but subject to any payments of principal or interest already made.

Renewal debentures

166. (1) A person claiming to be entitled to a debenture issued under this Act, may on applying to the Mukhya Nagar Adhikari and on satisfying him of the justice of his claim and delivering the debenture receipted in such manner and paying such fee as may be prescribed by the Mukhya Nagar Adhikari obtain a renewed debenture payable to the person applying.

(2) Where there is a dispute as to the title to a debenture issued under this Act in respect of which an application of renewal has been made, the Mukhya Nagar Adhikari may—

(*a*) where any party to the dispute has obtained a final decision from a Court of competent jurisdiction declaring him to be entitled to such debenture, issue a renewed debenture in favour of such party;

(*b*) refuse to renew the debenture until such decision has been obtained ; or

(*c*) after such inquiry as is hereinafter provided and on consideration of the result thereof declare by order in writing which of the parties is in his opinion entitled to such debenture and may, after the expiration of three months from the date of such declaration, issue a renewed debenture in favour of such party in accordance with the provisions of sub-section (1) unless within that period he has received notice that proceedings have been instituted by any person in a court of competent jurisdiction for the purpose of establishing a title to such debenture.

Explanation—For the purposes of this sub-section the expression "final decision" means a decision which is not appealable or a decision which is appealable but against which no appeal has been filed within the period of limitation allowed by law.

(3) For the purposes of the inquiry referred to in sub-section (2) the Mukhya Nagar Adhikari may himself record or may request the District Magistrate to record or to have recorded by any Magistrate subordinate to him the whole or any part of such evidence as the parties may produce. The Magistrate who records the evidence shall forward the record of such evidence to the Mukhya Nagar Adhikari.

(4) The Mukhya Nagar Adhikari or any Magistrate acting under this section may, if he thinks fit, record evidence on oath.

Liability in respect of debenture renewed

167. (1) When a renewed debenture has been issued under section 166 in favour of any person, the debenture so issued shall be deemed to constitute a new contract between the Mahapalika and such person and all persons deriving title thereafter through him.

(2) No such renewal shall affect the rights as against the Mahapalika of any other person to the debenture so renewed.

Discharge in certain cases

168. When a duplicate debenture has been issued under section 165 or when a renewed debenture has been issued under section 166 or when the principal sum due on a debenture in respect of which an order has been made under section 165 for the payment of the principal sum without the issue of a duplicate debenture has been paid on or after the date on which such payment became due the Mahapalika shall be discharged from all liability in respect of the debenture in place of which a duplicate or renewed debenture has been so issued or in respect of which such payment has been made, as the case may be—

(*a*) in the case of a duplicate debenture, after the lapse of six years from the date of the publication of the notification referred to in sub-section (3) of section 165 or from the date of the last payment of interest on the original debenture, whichever date is later ;

(*b*) in the case of a renewed debenture after the lapse of six years from the date of the issue thereof, and

(*c*) in the case of payment of the principal sum without the issue of a duplicate debenture, after the lapse of six years from the date of the publication of the notification referred to in sub-section (2) of section 165.

Indemnity

169. Notwithstanding anything in section 16 the Mukhya Nagar Adhakari may in any case arising thereunder—

(1) issue a renewed debenture upon receiving such indemnity in favour of the Mahapalika and the Mukhya Nagar Adhakiari as he shall think fit against the claims of all persons claiming under the original debenture, or

(2) refuse to issue a renewed debenture unless such indemnity is given.

Annual Statement to be prepared by Mukhya Nagar Adhikari

170. (1) The Mukhya Nagar Adhikari shall, at the end of each year, prepare a statement showing—

(*a*) the loans borrowed in previous years for which the Mahapalika is liable and which have not been completely repaid before the commencement of the year, with particulars of the amount outstanding at the commencement of the year, the date of borrowing and the annual loan charges ;

(*b*) the loans borrowed by the Mahapalika in the year with particulars as to the amount and the date of borrowing and the annual loan charges ;

(*c*) in the case of every loan for which a sinking fund is maintained the amount of accumulation in the sinking fund at the close of the year showing separately the amount to the credit of the fund in the year ;

(*d*) the loans repaid in the year and, in the case of the loans repaid in instalments or by annual drawings, the amounts repaid in the year, and the balance due at the close of the year ;

(*e*) the particulars of securities in which the sinking funds have been invested or reserved therefor.

(2) Every such statement shall be laid before a meeting of the Mahapalika and shall be published in the official *Gazette* and a copy of such statement shall be sent to the State Government and to the Examiner, Local Fund Accounts.

Power to make rules

171. The State Government may make rules to carry out all or any of the purposes of this Chapter, and in particular, without affecting the generality of the power conferred hereby, make rules for the following purposes ;

(*a*) procedure for obtaining sanction of the state Government under this Chapter ;

(*b*) establishment of sinking fund ;

(*c*) investment of money in the sinking fund ;

(*d*) annual examination and audit of sinking fund ;

(*e*) manner of attachment of Mahapalika Fund ; and

(*f*) printing of debentures.

CHAPTER IX

MAHAPALIKA TAXATION

Taxes to be imposed under this Act

172. (1) For the purposes of this Act and subject to the provisions thereof and of Article 285 of the Constitution of India the Mahapalika shall impose the following taxes, namely—

(*a*) property taxes ,

(*b*) a tax on vehicles other than mechanically propelled vehicles, and other conveyances plying for hire or kept within the City or on boats moored therein ;

(*c*) a tax on animals used for riding, driving, draught or burden, when kept within the City

(2) In addition to the taxes specified in sub-section (1) the Mahapalika may for the purposes of this Act and subject to the provisions thereof impose any of the following taxes, namely—

(*a*) a tax on trades, callings and professions and holding of public or private appointments ;

(*b*) an octroi on goods or animals brought within the City for consumption, use or sale therein ;

(*c*) a tax on goods exported from or imported into the City in which an octroi was in force at the commencement of the Constitution of India ;

(*d*) a toll on vehicles and other conveyances and animals and laden *coolies* entering the City ;

(*e*) a tax on dogs kept within the City ;

(*f*) a betterment tax ;

(*g*) a tax on deeds of transfer of immovable property situated within the City ;

(*h*) a tax on advertisements not being advertisements published in newspapers ;

(*i*) a theatre tax, and

(*j*) any other tax which the State Legislature has the power under the Constitution of India to impose in the State :

Provided that octroi on goods under clause (*b*) and a tax under clause (*c*) shall not be levied at the same time.

(3) The Mahapalika taxes shall be assessed and levied in accordance with the provisions of this Act and the rules and bye-laws framed thereunder.

(4) Nothing in this section shall authorize the imposition of any tax which the State Legislature has no power to impose in the State under the Constitution of India :

Provided that where any tax was being lawfully levied in the area included in the City immediately before the commencement of the Constitution of India such tax may continue to be levied and applied for the purposes of this Act until provision to the contrary is made by Parliament.

Property Taxes

Property taxes leviable

173. (1) For the purposes of sub-section (1) of section 172 property taxes shall comprise the following taxes which shall, subject to the exceptions, limitations and conditions hereinafter provided, be levied on buildings and lands in the City—

(*a*) a general tax which may be levied, if the Corporation so determines, on a graduated scale ;

(*b*) a water tax ;

(*c*) drainage tax leviable in areas provided with sewer system by the Mahapalika ;

(*d*) a conservancy tax in areas in which the Mahapalika undertakes the collection, removal and disposal of excrementitious and polluted matter from privies, urinals and cesspools.

(2) Save as otherwise expressly provided in this Act or rules made thereunder, these taxes shall be levied on the annual value of buildings or land as the case may be :

Provided that the aggregate of the property taxes shall in no case be less than 15 per cent nor more than 25 per cent of the annual value of the building or land or both assessed to such taxes.

Definition of "annual value"

174. "Annual value" means—

(*a*) in the case of railway stations, colleges, schools, hostels, factories and other such buildings, a proportion not below 5 per cent to be fixed by rule made in this behalf of the sum obtained by adding the estimated present cost of erecting the building, less depreciation at a rate to be fixed by rule, to the estimated value of the land appurtenant thereto, and

(*b*) in the case of a building or land not falling within the provisions of clause (*a*) the gross annual rent for which such building, exclusive of furniture or machinery therein, or such land is actually let, or where the building or land is not let or in the opinion of the assessing authority is let for a sum less than its fair letting value, might reasonably be expected to be let from year to year :

Provided that where the annual value of any building would, by reason of exceptional circumstances, in the opinion of the Mahapalika, be excessive if calculated in the aforesaid manner, the Mahapalika may fix the annual value at any less amount which appears to it equitable:

Provided further hat where the Mahapalika so resolves, the annual value in the case of owner occupied buildings and land shall for the purposes of assessment of property taxes be deemed to be 25 per cent less than the annual value otherwise determined under this section.

Restriction on the imposition of water tax

175. The imposition of a tax under clause (*b*) of sub-section (1) of section 173 shall be subject to the restriction that the tax shall not be imposed on land exclusively used for agricultural purposes, or where the unit of assessment is a plot of land or a building, as hereinafter defined, on any such plot or building of which no part is within a radius, to be fixed by rule in this behalf for each City, from the nearest stand-pipe or other waterworks whereat water is made available to the public by the Mahapalika.

Explanation—In this section—

(*a*) "building" shall include the compound (if any) thereof, and, where there are several buildings in common compound, all such buildings and the common compound ;

(*b*) " a plot of land" means any piece of land held by a single occupier, or held in common by several co-occupiers, whereof no one portion is entirely separated from any other portion by the land of another occupier or of other co-occupiers or by public property.

Pooling of income from waterworks, drainage works, etc.

176. The proceeds of the water, drainage and conservancy taxes and all other incomes derived from waterworks, drainage works, drains and excrementitious and polluted matter collected from privies, urinals and cesspools and from disposal of such matters and income from sullage farms shall be pooled together and shall be defrayed on purposes connected with the construction, maintenance, extension or improvement of such waterworks and drainage works and with the collection, removal and disposal of excrementitious and polluted matter from privies, urinals and cesspools including maintenance of sullage farms.

General tax on what premises to be levied

177. The general tax shall be levied in respect of all buildings and lands in the City except—

(*a*) buildings and lands solely used for purposes connected with the disposal of the dead ;

(*b*) buildings and lands or portions thereof solely occupied and used for public worship or for a charitable purpose ;

(*c*) buildings solely used as jails, court houses, treasuries, schools and colleges ;

(*d*) ancient monuments as defined in the Ancient Monuments Preservation Act, 1904, subject to any direction of the State Government in respect of any such monument;

(*e*) any building or land the annual value of which is less than Sixty rupees or such higher amount up to rupees one hundred and eighty as the Mahapalika may fix provided the owner thereof does not own any other building or land in the City; and

(*f*) buildings and lands vesting in the Union of India except where provisions of clause (2) of article 285 of the Constitution of India apply.

Remission by reason of non occupation

178. (1) When a building or land has remained vacant and unproductive of rent for ninety or more consecutive days during any year, the Mukhya Nagar Adhikari shall remit or refund so much of each of the property taxes of that year as may be proportionate to the number of days that the said building or land has remained vacant and unproductive of rent.

( ) When a building consists of two or more separate tenements and one or more such tenements has remained vacant and unproductive of rent during any such period as aforesaid, the Mukhya Nagar Adhikari may remit or refund such portion (if any) of each tax or instalment as may be prescribed :

Provided that no remission shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the Mahalapika; and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

(3) The burden of proving the facts entitling a person to remission or refund under this section shall be upon the person claiming the same.

(4) For the purposes of this section a building or land shall not be deemed to be vacant, if it is maintained as a pleasure resort or town or country house, or be deemed to be unproductive of rent, if it is let to a tenant who has a continuing right of occupation thereof, whether he is in actual occupation or not.

Primary respo sibility for cer property taxes on annual valu

179. (1) Except where otherwise prescribed, every tax (other than a drainage tax or a conservancy tax) on the annual value of buildings or lands shall be leviable primarily from the actual occupier of the property upon which the tax is assessed, if he is the owner of the buildings or lands or holds them on a building or other lease from the Central or the State Government or from the Mahapalika, or on a building lease from any person.

(2) In any other case the tax shall be primarily leviable as follows, namely—

(*a*) if the property is let from the lessor;

(*b*) if the property is sub-let from the superior lessor;

(*c*) if the property is unlet from the person in whom the right to let the same vests.

(3) On failure to recover any sum due on account of such tax from the person primarily liable, the Mukhya Nagar Adhikari may recover from the occupier of any part of the buildings or lands in respect of which it is due that portion thereof which bears to the whole amount due the same ratio as the rent annually payable by such occupier bears to the aggregate amount of rent payable in respect of the whole of the said building or lands, or to the aggregate amount of the letting value thereof in the authenticated assessment list.

(4) An occupier who makes any payment for which he is not primarily liable under the foregoing provisions shall, in the absence of any contract to the contrary, be entitled to be reimbursed by the person primarily liable.

Liability for payment of other such taxes

180. (1) A drainage tax, or a conservancy tax on the annual value of buildings or lands shall be levied from the actual occupier of the property upon which the taxes are assessed:

Provided that, where such property is let to more occupiers than one, the Mukhya Nagar Adhikari may at his option levy the tax from the lessor instead of from the actual occupiers.

(2) A lessor from whom a tax is levied under the proviso to sub-section (1) may, in the absence of a contract to the contrary, recover the tax from any or all of the actual occupiers.

Property taxes to be a first charge on premises on which they are assessed.

181. (1) Property taxes due under this Act in respect of any building or land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereupon, be a first charge, in the case of any building or land held immediately from the State, upon the interest in such building or land of the person liable for such taxes and upon the movable property, if any, found within or upon such building or land and belonging to such person ; and, in the case of any other building or land, upon the said building or land and belonging to the person liable for such taxes.

Explanation—The term "property-taxes" in this section shall be deemed to include any charges payable for water supplied to any premises and the costs of recovery of property taxes as specified in the rules.

(2) In any decree in a suit for the enforcement of the charge created by sub-section (1), the Court may order the payment to the Mahapalika of interest on the sum found to be due at such rate as the Court deems reasonable from the date of the institution of the suit until realization, and such interest and the cost of enforcing the said charge, including the costs of the suit and the cost of bringing the premises or movable property in question to sale under the decree, shall, subject as aforesaid, be a first charge on such premises and movable property along with the amount found to be due, and the Court may direct payment thereof to be made to the Mahapalika out of the sale proceeds.

Taxes on Vehicles, Boats and Animals

Taxes on vehicles, boats and animals

182. (1) A tax under clause (*b*) or clause (*c*) of sub-section (1) of section 172 shall be levied at rates not exceeding those prescribed by rule by the State Government in this behalf from time to time on vehicles and boats or on animals, as the case may be.

(2) The Mahapalika shall from year to year, in accordance with section 148 determine the rates at which the tax referred to in sub-section (1) shall be levied.

(3) A vehicle, boat or animal kept outside the limits of the City but regularly used within such limits shall be deemed to be kept for use in the City.

Exemptions from certain taxes mentioned in section 172

183. (1) The tax under clause (*b*) of sub-section (1) of section 172 shall not be leviable in respect of—

(*a*) vehicles and boats belonging to the Mahapalika ;

(*b*) vehicles and boats vesting in the Union of India except where the provisions of clause (2) of article 285 of the Constitution of India apply;

(*c*) vehicles and boats vesting in any State comprised in the Union of India and used solely for public purposes and not used or intended to be used for purposes of profit ;

(*d*) vehicles and boats intended exclusively for conveyance free of charge of the injured, sick or dead ;

(*e*) children's perambulators and tricycles ;

(*f*) vehicles or boats kept by *bona fide* dealers in vehicles or boats for sale merely, and not used.

(2) The tax under clause (*c*) of sub-section (1) of section 172 shall not be leviable in respect of—

(*a*) animals belonging to the Mahapalika ;

(*b*) animals vesting in the Union of India except where the provisions of clause (2) of article 285 of the Constituion of India apply ;

(*c*) animals vesting in any State comprised in the Union of India and used solely for public purposes and not used or intended to be used for purposes of profit.

(3) If any question arises under clause (*b*) or clause (*c*) of sub-section (1) or clause (*b*) or clause (c) of sub-section (2) whether any vehicle, boat or animal vesting in the Union of India or any State comprised therein is or is not used or intended to be used for purposes of profit, such question shall be determined by the State Government whose decision shall be final.

Other Taxes

Betterment tax

184. "Betterment tax" means a tax to be charged on the increase in the value of the land comprised in a scheme put into operation under Chapter XIV, but not actually required for the execution thereof, or on the increase in the value of any land adjacent to and within one quarter of a mile of the boundaries of such scheme, provided that such adjacent land is situated within the City.

Amount of Betterment tax

185. The Betterment tax shall be an amount equal to one-half of the difference between the market value of the land on the date specified in the public notice under sub-section (2) of section 187 and the market value of such land on or immediately before the date on which the scheme was finally notified under Chapter XIV:

Provided that for the purposes of calculation under this section the land shall be treated as free of all buildings.

Payment of Betterment tax

186. Where a Mahapalika has imposed a tax mentioned in clause (f) of sub section (2) of section 172 every owner of land mentioned in section 184 or any person, having an interest therein in respect of the increase in the value of such land, shall in the manner hereinafter provided pay to the Mahapalika such Betterment tax as may be determined by the Mukhya Nagar Adhikari.

Notice of levy of Betterment tax

187. (1) The State Government shall, by notification in the official *Gazette*, declare the date on which a scheme shall be deemed to have been completed.

(2) Within one year of the date of the completion of the scheme declared in sub-section (1), the Mukhya Nagar Adhikari shall give public notice of the intention of the Mahapalika to levy a Betterment tax from a specified date.

Assessment of Betterment tax

188. (1) The Mukhya Nagar Adhikari shall at any time after one month from the publication of such notice assess the amount of Betterment tax payable by the person concerned and shall give a notice in writing to such person stating the amount of the tax and the instalments, if any, and the dates on which the tax shall be paid together with such other particulars as may be necessary.

(2) Any person on whom a notice of assessment is served in sub-section (1) may, within one month from the date of the service of such notice, file an objection against such assessment before the Mukhya Nagar Adhikari

Provided that an objection may be entertained even after the expiry of the period mentiond in sub-section (1) if the Executive Committee or sub-committee thereof referred to in sub-section (3) is satisfied that the failure to file objection was due to causes beyond the control of the objector.

(3) After an opportunity has been given to the objector of being heard, the Executive Committee or a sub-committee thereof appointed in this behalf shall decide the objection and may then confirm, modify or cancel the assessment.

(4) If the person on whom a notice of assessment is served under sub-section (1) fails to file an objection, under sub-section (2), the order of assessment shall be conclusive and shall not be questioned before any court of law or tribunal.

Alternative payment o Betterment ta

189. (1) A person liable to pay Betterment tax may at his option instead of paying thereof to the Mahapalika, execute an agreement with the Mahapalika to leave the said payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at the rate of 6 per cent per annum

(2) A person who has exercised his option under sub-section (1) may, at any time, subject to his giving six months' notice of his intention, pay the amount of Betterment tax assessed under section 188.

Recovery o arrears of Bette ment tax

190. Arrears of Betterment tax shall be realized in the manner provided in Chapter XXI.

Tax on deeds o transfer of im movable proper

191. (1) Where the Mahapalika has imposed a tax referred to in clause (*g*) of section 172, the duty imposed by the Indian Stamp Act, 1899, on any deed of transfer of immovable property shall, in the case of immovable property situated within the City, be increased by 2 per cent on the value of the property transferred, or, in the case of a usufructuary mortgage, on the amount secured by the instrument.

(2) All collections resulting from the said increase shall, after the deduction of incidental expenses, if any, be paid to the Mahapalika by the State Government in such manner as may be prescribed by rules.

(3) For the purpose of this section, section 27 of the Indian Stamp Act, 1899, shall be so read and construed as if it specifically required the particulars referred to therein to be separately set forth in respect of—

(*a*) property situated within the City, and

(*b*) property situated outside the City.

(4) For the purposes of this section, section 64 of the Indian Stamp Act, 1899, shall be so read and construed as if it referred to the Mahapalika as well as to the Government.

Tax on advertisements

192. Where a Mahapalika imposes a tax mentioned in clause (*h*) of sub-section (2) of section 172, every person who erects, exhibits, fixes or retains upon or over any land, building, wall, hoarding or structure any advertisement or who displays any advertisement to public view in any manner whatsoever, in any place whether public or private, shall pay on every advertisement which is so erected, exhibited, fixed, retained or displayed to public view, a tax calcuated at such rates and in such manner and subject to such exemptions as may be provided by the Act or rules made thereunder:

Provided that no tax shall be levied under this section on any advertisement or a notice—

(*a*) of public meetings, or

(*b*) of an election to any legislative body or the Mahapalika,

(*c*) of a candidature in respect of such an election :

Provided also that no such tax shall be levied on any advertisement which is not a sky-sign and which—

(*a*) is exhibited within the window of any building, or

(*b*) relates to the trade or business carried on within the land or building upon or over which advertisement is exhibited, or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held upon or in the same, or

(*c*) relates to the name of the land or building upon or over which the advertisement is exhibited, or to the name of the owner or occupier of such land or building, or

(*d*) relates to the business of any railway administration, or

(*e*) is exhibited within any railway station or upon any wall or other property of a railway administration except any portion of the surface of such wall or property fronting any street.

Explanation 1—The word "structure" in this section shall include any movable board on wheels used as an advertisement or an advertisment medium.

Explanation 2—"Public place" shall, for the purpose of this section, mean any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not.

Prohibition of advertisements without written permission of Mukhya Nagar Adhikari

193. (1) No advertisement shall, after the levy of the tax under section 192 has been determined upon by the Mahapalika, be erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding or structure within the City or shall be displayed in any manner whatsoever in any place without the written permission of the Mukhya Nagar Adhikari.

(2) The Mukhya Nagar Adhakari shall not grant such permission if—

(i) the advertisement contravenes any bye-law made by the Mahapalika under clause (47) of section 541, or

(ii) the tax, if any, due in respect of the advertisement has not been paid.

(3) Subject to the provisions of sub-section (2) in the case of an advertisement liable to the advertisement tax, the Mukhya Nagar Adhikari shall grant permission for the period to which the payment of the tax relates and no fee shall be charged in respect of such permission :

Provided that the provisions of this section shall not apply to any advertisement erected, exhibited, fixed or retained on the railway premises or relating to the business of any railway administration.

Permission of the Mukhya Nagar Adhikari to become void in certain cases

194. The permission granted under section 193 shall become void in the following cases, namely:

(*a*) if the advertisement contravenes any bye-law made by the Mahapalika under clause (47) of section 541 ;

(*b*) if any addition to the advertisement be made except for the purpose of making it secure under the direction of the Mukhya Nagar Adhikari;

(*c*) if any material change be made in the advertisement or any part thereof ;

(*d*) if the advertisement or any part thereof falls otherwise than through accident ;

(*e*) if any addition or alteration be made to, or in the building, wall or structure upon or over which the advertisement is erected, exhibited, fixed or retained if such addition or alteration involves the disturbance of the advertisement or any part thereof ; and

(*f*) if the building, wall or structure upon or over which the advertisement is erected, exhibited, fixed or retained be demolished or destroyed.

Beneficiary from advertisement to be deemed responsible

195. Where any advertisement shall be erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding or structure in contravention of the provisions of section 192 or section 193 or after the written permission for the erection, exhibition, fixation or retention thereof for any period shall have expired or become void, the person for whom or for whose purposes the advertisement has *prima facie* been so erected, exhibited, fixed or retained shall be deemed to be the person who has erected, exhibited, fixed or retained such advertisement in such contravention unless he proves that such contravention was committed by a person not in his employment or under his control or was committed without his connivance.

Removal of unauthorized advertisements

196. If any advertisement be erected, exhibited, fixed or retained contrary to the provisions of section 192 or section 193 or after the written permission for the erection, exhibition, fixation or retention thereof for any period shall have expired or become void, the Mukhya Nagar Adhikari may, by notice in writing, require the owner or occupier of the land, building, wall, hoarding or structure upon or over which the same is erected, exhibited, fixed or retained to take down or remove such advertisement or may enter any building, land or property and have the advertisement removed.

Exemption from theatre tax

197. The theatre tax shall not be leviable in respect of—

(*a*) any entertainment or amusement for admission to which no charge is made or only a nominal charge is made ;

(*b*) any entertainment or amusement which is not open to the general public on payment ;

(*c*) any entertainment or amusement the full proceeds of which, without the deduction of expenses, are intended to be utilized for a public charitable purpose.

Explanation—For the purposes of this section a nominal charge shall be such charge as may be fixed by the rules.

Power to fix octroi limits

198. (1) When a Cantonment authority with the sanction of the Central Government has agreed with the Mahapalika of an adjoining City that the same octroi or toll limits shall be established for the Cantonment and the City, and that octroi or toll collections and charges shall be divided between the Cantonment fund and the Mahapalika fund, the octroi or toll limits fixed by rules shall include so much both of the Cantonment and of the area of the City as the State Government deems necessary.

(2) The Mahapalika shall have the same powers of collecting octroi on animals or goods brought within such limits or toll on vehicles and other conveyances, animals and laden *coolies* emerging from such limits, and the provisions of this Act relating to octroi and toll shall apply in the same way as if such limits were wholly within the City.

Imposition of Taxes

Framing of preliminary proposals

199. (1) When a Mahapalika desires to impose a tax specified in sub-section (2) of section 172 it shall by resolution direct the Executive Committee to frame proposals specifying—

(*a*) the tax, being one of the taxes described in sub-section (2) of section 172 which it desires to impose ;

(*b*) the persons or class of persons to be made liable, and the description of property or other taxable thing or circumstances in respect of which they are to be made liable, except where and in so far as any class or description is already sufficiently defined under clause (*a*) or by this Act ;

(*c*) the amount or rate leviable from each such person or class of persons ;

(*d*) any other matter referred to in section 219 which the State Government requires by rule to be specified.

(2) Upon a resolution being passed under sub-section (1) the Executive Committee shall frame the proposals and also prepare a draft of the rules which it desires the State Government to make in respect of the matters referred to in section 219.

(3) The Executive Committee shall, thereafter, publish in the manner prescribed by rule the proposals framed under sub-section (1) and the draft rules framed under sub-section (2) along with a notice in the form to be prescribed by rule.

Procedure subsequent to framing proposals

200. (1) Any inhabitant of the City may, within two weeks from the publication of the said notice, submit to the Mahapalika an objection in writing to all or any of the proposals framed under the preceding section, and the Mahapalika shall take any objection so submitted into consideration and pass orders thereon by special resolution.

(2) If the Mahapalika decides to modify the proposals of the Executive Committee, or any of them the Mukhya Nagar Adhikari shall publish the modified proposals and, if necessary, revised draft rules along with a notice indicating that the proposals and rules (if any) are in modification of proposals and rules previously published for objection.

(3) Any objections which may be received to the modified proposals shall be dealt with in the manner prescribed in sub-section (1).

(4) When the Mahapalika has finally settled its proposals, the Mukhya Nagar Adhikari shall submit them along with the objections (if any) made in connexion therewith to the State Government.

Power of State Government to reject, sanction or modify proposals

201. Upon receipt of the proposals and objections under the preceding section the State Government may either refuse to sanction the proposals or return them to the Mahapalika for further consideration or sanction them without modification or with such modification not involving an increase of the amount to be imposed, as it seems fit.

Resolution of Mahapalika directing imposition of taxes

202. (1) When the proposals have been sanctioned by the State Government, the State Government, after taking into consideration the draft rules submitted by the Mahapalika, shall proceed forthwith to make such rules in respect of the tax as for the time being it considers necessary.

(2) When the rules have been made the order of sanction and a copy of the rules shall be sent to the Mahapalika, and thereupon the Mahapalika shall by special resolution direct the imposition of the tax with effect from a date to be specified in the resolution.

Imposition

203. (1) A copy of the resolution passed under section 202 shall be submitted to the State Government.

(2) Upon receipt of the copy of the resolution the State Government shall notify in the official *Gazette*, the imposition of the tax from the appointed date, and the imposition of a tax shall in all cases be subject to the condition that it has been so notified.

(3) A notification of the imposition of a tax under sub-section (2) shall be conclusive proof that the tax has been imposed in accordance with the provisions of this Act.

Procedure for altering taxes

204. The procedure for abolishing a tax, or for altering a tax in respect of the matters specified in clauses (*b*) and (*c*) of sub-section (1) of section 199 shall, so far as may be, be the procedure prescribed by sections 199 to 202 for the imposition of a tax.

Power of State Government to remedy or abolish tax

205. (1) Whenever it appears, on complaint made or otherwise to the State Government, that the levy of any tax is contrary to the public interest or that any tax is unfair in its incidence, the State Government may, after considering the explanation of the Mahapalika concerned, by order require such Mahapalika to take measures within a time to be specified in the order, for the removal of any defect which it considers to exist in the tax or in the method of assessing or collecting the tax.

(2) Upon the failure or inability of the Mahapalika to comply, to the satisfaction of the State Government, with an order made under sub-section (1), the State Government, may by notification, suspend the levy of the tax, or of any portion thereof, until the defect is removed, or may abolish or reduce the tax.

Power of State Government to require Mahapalika to impose taxes

206. (1) The State Government may, by general or special order, published in the official *Gazette*, require a Mahapalika to impose any tax mentioned in sub-section (2) of section 172 not already imposed, at such rate and within such period as may be specified in the notification, and the Mahapalika shall thereupon act accordingly.

(2) The State Government may require a Mahapalika to increase, modify or vary the rate of any tax already imposed and thereupon the Mahapalika shall increase, modify or vary the tax as required.

(3) If the Mahapalika fails to carry out the order passed under sub-section (1) or (2), the State Government may pass suitable order imposing, increasing, modifying or varying the tax and thereupon the order of the State Government shall operate as if it had been a resolution duly passed by the Mahapalika.

Assessment and Levy of Property Taxes

Preparation of assessment list

207. The Mukhya Nagar Adhikari shall cause an assessment list of all buildings or lands or both in the City to be prepared, containing—

(*a*) the name of the street or *mohalla* in which the property is situated ;

(*b*) the designation of the property, either by name or by number sufficient for identification ;

(*c*) the names of the owner and occupier, if known ;

(*d*) the annual letting value or other particulars determining the annual value ; and

(*e*) the amount of the tax assessed thereon.

Publication of list

208. When the assessment list has been prepared, the Mukhya Nagar Adhikari shall give public notice of the place where the list or a copy thereof may be inspected; and every person claiming to be either owner or occupier of property included in the list, and an agent of such person shall be at liberty to inspect the list and to make extracts therefrom without charge.

Objections to entries in list

209. (1) The Mukhya Nagar Adhikari shall at the same time give public notice of a date, not less than one month thereafter, when the Executive Committee will proceed to consider the valuation and assessments entered therein and in all cases in which any property is for the first time assessed or the assessment is increased, he shall also give notice thereof to the owner or occupier of the property, if known.

(2) All objections to valuations and assessments shall be made to the Mukhya Nagar Adhikari, before the date fixed in the notice, by application in writing stating the grounds on which the valuation and assessment are disputed, and all applications so made shall be registered in a book to be kept by the Mukhya Nagar Adhikari for the purpose.

(3) The Executive Committee or a sub-committee thereof appointed by the Executive Committee in this behalf shall, after allowing the applicant an opportunity of being heard in person or by agent—

(*a*) investigate and dispose of the objections ;

(*b*) cause the result thereof to be noted in the book kept under sub-section (2) ; and

(*c*) cause any amendment necessary in accordance with such result to be made in the assessment list.

Authentication and custody of list

210. (1) When all objections made under section 209 have been disposed of, and all amendments required by sub-section (3) of that section have been authenticated by the signature of the Nagar Pramukh or, in the case of appointment under section 209 of a sub-committee, by the signatures of the Chairman of such sub-committee, the person so authenticating the list shall certify the consideration of all objections duly made and the amendment of the list so far as required by the decisions of such objections.

(2) The list so authenticated shall be deposited in the office of the Mahapalika and shall, thereupon, be declared by public notice to be open for inspection.

Revision and duration of list

211. (1) A new assessment list shall ordinarily be prepared in the manner prescribed by sections 207 to 210 once in every five years.

(2) Subject to any alteration or amendment made under section 213 and to the result of any appeal under section 472 every valuation and assessment entered in a valuation list shall be valid from the date on which the list takes effect in the City and until the first day of April next following the completion of a new list.

Conclusiveness of entries in list

212. An entry in an assessment list shall be conclusive proof—

(*a*) for any purpose connected with a tax to which the list refers, of the amount leviable in respect of any building or land during the period to which the list relates, and

(*b*) for the purpose of assessing any other Mahapalika tax, of the annual value of any building or land during the said period.

Amendment and alteration of list

213. (1) The Executive Committee or a sub-committee thereof appointed in this behalf may at any time alter or amend the assessment list—

(*a*) by entering therein the name of any person or any property which ought to have been entered or any property which has become liable to taxation after the authentication of the assessment list ; or

(*b*) by substituting therein for the name of the owner or occupier of any property the name of any other person who has succeeded by transfer or otherwise to the ownership or occupation of the property ; or

(*c*) by enhancing the valuation of, or assessment on, any property which has been incorrectly valued or assessed by reason of fraud, misrepresentation or mistakes ; or (*d*) by revaluing or re-assessing any property the value of which has been increased by additions or alterations to buildings ; or

(*e*) where the percentage on the annual value at which any tax is to be levied has been altered by the Mahapalika under the provisions of section 204 by making a corresponding alteration in the amount of the tax payable in each case ; or

(*f*) by reducing upon the application of the owner or on satisfactory evidence that the owner is untraceable and the need for reduction established, upon its own initiative, the valuation of any building which has been wholly or partly demolished or destroyed ; or

(*g*) by correcting any clerical, arithmetical or other apparent error:

Provided that the Executive Committee or the sub-committee as the case may be, shall give at least one month's notice to any person interested in any alteration which the Executive Committee or sub-committee proposes to make under clauses (*a*), (*b*), (*c*) or (*d*) of sub-section (1) and of the date on which the alteration will be made.

(2) The provisions of sub-sections (2) and (3) of section 209 applicable to the objections thereunder mentioned shall, so far as may be, apply to any objection made in pursuance of a notice issued under sub-section (2) and to any application made under clause (*f*) of sub-section (1).

(3) Every alteration made under sub-section (1) shall be authenticated by the signature or signatures of the person authorized by section 210 and, subject to the result of an appeal under section 472, shall take effect from the date on which the next instalment falls due.

Obligation to supply information for purposes of amendment

214. When a building is built, re-built or enlarged, the owner shall give notice thereof to the Mukhya Nagar Adhikari within fifteen days from the date of completion of such building, re-building or enlargement, or from the date of the occupation of such building, whichever date happens first.

Obligation to giv notice of re-occupation

215. The owner of a building or land for which a remission or refund of the tax has been given under section 178 shall give notice of the re-occupation of such building or land within fifteen days of such re-occupation.

Consolidation o taxes

216. For the purpose of assessing, levying or collecting, but not for the purpose of imposing or granting exemption from, the property taxes described in section 173 a Mahapalika may consolidate any two or more of such taxes:

Provided that in any register or assessment list relating to a consolidated tax and used for the purpose of informing a person of his liability thereunder or for the purpose of securing compliance with the provisions of section 175 or section 176 the

Mukhya Nagar Adhikari shall, in the manner prescribed, apportion the consolidated tax amongst the several taxes comprised therein, so as to show approximately the amount assessed or collected on account of each separate tax.

Deducation required by exemptions

217. (1) In assessing a consolidated tax effect shall be given to any partial or total exemption from any single tax comprised therein.

(2) Such effect shall be given—

(*a*) in the case of partial exemption, by means of the deduction from the total amount of the consolidated tax which would otherwise be leviable or assessable in respect of any buildings, or lands or both, to which the exemption applies, of a proportionate part, corresponding to the exemption, of the amount which might otherwise have been assessed on account of the single tax, and

(*b*) in the case of a total exemption, by means of the deduction from such total amount of the whole amount assessed on account of the single tax.

Summary proceedings may be taken against persons abput to leave the City

218. (1) If any sum recoverable under the provisions of this Chapter is due or is about to become due from any person, and if the Mukhya Nagar Adhikari shall have reason to believe that such person is about to leave the limits of the City the Mukhya Nagar Adhikari may direct the immediate payment by such person of such sum and cause a bill for the same to be presented.

(2) If, on presentation of such bill, the said person does not forthwith pay the said sum or does not furnish security to the satisfaction of the Mukhya Nagar Adhikari, the amount shall be levied by distress and sale of his movable property or by attachment and sale of his immovable property in the manner specified in Chapter XXI except that it shall not be necessary to serve upon him any notice of demand and the Mukhya Nagar Adhikari's warrant for distress and sale may be issued and executed without any delay.

Other Matters

Rules as to assessment, collection and other matters

219. The following matters shall be regulated and governed by rules except in so far as provision therefor is made by this Act, namely—

(*a*) the assessment, collection or composition of taxes, and, in the case of octroi or toll, the determination of octroi or toll limit ;

(*b*) the prevention of evasion of taxes ;

(*c*) the system on which refunds shall be allowed and paid ;

(d) the fees for notices demanding payments on account of a tax and for the execution of warrants of distress ;

(*e*) the rates to be charged for maintaining livestock distrained ; and

(*f*) any other matters relating to taxes in respect of which this Act makes no provision or insufficient provision and provision is, in the opinion of the State Government, necessary.

Composition

220. (1) Subject to the provisions of any rule, a Mahapalika may by a special resolution confirmed by the State Government, provide that all or any persons may be allowed to compound for a tax.

(2) Every sum due by reason of the composition of a tax under sub-section (1) shall be recoverable in the manner provided by Chapter XXI.

Exemption

221. (1) A Mahapalika may exempt, for a period not exceeding one year, from the payment of a tax, or any portion of a tax, imposed under this Act, any person who is in its opinion, by reason of poverty, unable to pay the same, and may renew such exemption as often as it deems necessary.

(2) A Mahapalika may, by a special resolution confirmed by the State Government, exempt from the payment of a tax, or any portion of a tax, imposed under this Act, any person or class of persons or any property or description of property.

(3) The State Government may, by order exempt from the payment of a tax, or any portion of a tax, imposed under this Act, any person or class of persons or any property or description of property.

Obligation to disclose liabilit

222. (1) The Mahapalika may by written communication call upon an inhabitant of the City to furnish such information as may be necessary in order to ascertain—

(*a*) whether such inhabitant is liable to pay a tax imposed under this Act ;

(*b*) at what amount he should be assessed ;

(*c*) the annual value of the building or land which he occupied and the name and address of the owner.

(2) If an inhabitant so called upon to furnish information omits to furnish it or furnishes information which is untrue, he shall be liable upon conviction to a fine which may extend to five hundred rupees.

Powers discovery

223. The Mukhya Nagar Adhikari or any other officer or servant of the Mahapalika authorized in this behalf may enter, inspect and measure a building for the purposes of valuation, or enter and inspect a stable, coach house or other place wherein, there is reason to believe that there is a vehicle or animal liable to taxation under this Act and the provisions of sections 560, 562 and 563 shall apply to such inspections.

Savings

224. No assessment list or other list, notice, bill or other such document specifying, or purporting to specify, with reference to any tax, charge, rent or fee, any person, property, thing or circumstances shall be invalid by reason only of the mistake in the name, residence, place of business or occupation of the person, or in the description of the property, thing or circumstance, or by reason of any more clerical error or defect of form and it shall be sufficient that the person, property, thing or circumstance is described sufficiently for the purpose of identification, and it shall not be necessary to name the owner or occupier of any property liable in respect of a tax.

Supplementary Taxation

Any tax imposable under this Act may be increased or newly imposed by way of imposing supplementary taxation

225. Whenever the Mahapalika determines to have recourse to supplementary taxation in any financial year, it shall do so by increasing, for the unexpired portion of the said year, the rates at which any tax imposable under this Act is being levied, subject to the limit and conditions for such tax prescribed in this Act or in the orders or sanction of the State Government or by levying, with due sanction, a tax imposable under this Act but not being levied at the time being.

Bar to jurisdiction of civil and criminal courts in matters of taxation

226. No objection shall be taken to a valuation or assessment nor shall the liability of a person to be assessed or taxed be questioned in any other manner or before any other authority than is provided in this Act.

Power to make rules

227. (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power such rules may provide for—

(*a*) matters referred to in section 219 ;

(*b*) maintenance and inspection of register regarding taxes on vehicle, boat and animal ;

(*c*) table of rates of octroi and toll and their publication, maintenance and inspection ;

(*d*) the examination of articles liable to octroi ;

(*e*) advance payment of taxes ;

(*f*) summary disposal of objections to distress and attachment ;

(*g*) the conditions on which exemptions and refunds of taxes shall be allowed.

CHAPTER X

DRAINS AND DRAINAGE

Mahapalika Drains

Drains to b constructed a kept in repa by the Mukh Nagar Adhikar

228. (1) Subject to any general directions which the Executive Committee may from time to time give in this behalf, the Mukhya Nagar Adhikari shall maintain and keep in repair all Mahapalika drains and may with the approval of the Executive Committee construct such new drains both within and without the City as shall from time to time be necessary for effectually draining the City and areas immediately around it :

Provided that no drain shall be constructed within the limits of a Cantonment without the approval of the State Government and otherwise than with the concurrence of the General Officer Commanding the Division in which such Cantonment is situate or, in the event of such concurrence being withheld, the previous sanction of the Central Government.

(2) The Mukhya Nagar Adhikari shall also, in the case of any street in which there is a municipal drain, construct at the charge of the Mahapalika Fund such portion of the drain of any premises to be connected with such a Mahapalika drain as it shall be necessary to lay under any part of such street and the portion of any connecting drains so laid under the street shall vest in the Mahapalika and be maintained and kept in repair by the Mukhya Nagar Adhikari as a Mahapalika drain.

Adoption b Mahapalika c drains and drain age or sewage disposal works

229. (1) Subject to the other provisions of this Act the Mukhya Nagar Adhikari may at any time with the approval of the Mahapalika declare that any drain or part thereof or any drainage or sewage disposal works situate within the City or serving the City or any part thereof shall, from such date as may be specified in the declaration, become vested in the Mahapalika.

(2) The Mukhya Nagar Adhikari in deciding whether a declaration should be made under sub-section (1) shall have regard to all the circumstances of the case and, in particular, to the following considerations—

(*a*) whether the drain or works in question is or are adapted to, or required for, any general system of drainage or drainage disposal or sewage disposal which the Mukhya Nagar Adhikari has provided for the City or any part thereof ;

(*b*) whether the drain is constructed under a street or under land reserved by or under the provision of this Act or any other law for the time being in force for a street.

(c) the number of buildings which the drain is intended to serve, and whether, regard being had to the proximity of other buildings or the prospect of future development, it is likely to be required to serve additional buildings ;

(*d*) the method of construction and state of repair of the drain or works ; and

(*e*) whether the making of the proposed declaration would be seriously detrimental to the owner of the drain or works in question.

(3) Whenever it is proposed to make a declaration under sub-section (1), the Mukhya Nagar Adhikari shall give written notice of the proposal to the owner or owners of the drain or works in question to show cause against it within a period of one month from the date of service and the declaration shall not be made until the expiry of the period aforesaid, or where any objection has been lodged until the objection has been disposed of.

(4) Where a declaration referred to in sub-section (1) relates to a drain or drainage or sewage disposal works situate within the jurisdiction of some local authority other than the Mahapalika or situate within the City but serving an area, or part of an area, within the jurisdiction of such local authority, the Mukhya Nagar Adhikari shall also give notice to that authority and no declaration shall be made until either that authority has consented thereto or the State Government has dispensed with the necessity of such consent, whether unconditionally or subject to the such conditions as it may think fit to impose.

(5) No declaration under sub-section (1) shall be made with respect to any drain or part of a drain or any works as is or are vested in some local authority other than the Mahapalika or the Central Government or a Railway Administration, except on the request of the authority, the Government or Railway Administration, concerned.

(6) Any person who, immediately before the making of a declaration under sub-section (1) was entitled to use the drain in question shall notwithstanding the declaration be entitled to use it, or any drain substituted therefor, to the same extent as previously

Power of making drains

230. (1) The Mukhya Nagar Adhikari may carry any Mahapalika drain through, across or under any street or any place laid out as or intended for a street or under cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the City or, for the purpose of outfall or distribution of sewage, without the City.

(2) The Mukhya Nagar Adhikari may enter upon, and construct any new drain in the place of an existing drain in any land wherein any Mahapalika drain has been already lawfully constructed, or repair or alter any Mahapalika drain so constructed.

Alteration, e
and disconti
a nce of dra

231. The Mukhya Nagar Adhikari may enlarge, alter the course of, deepen, lessen, arch over or otherwise improve any Mahapalika drain, and may discontinue, close up or destroy any such drain which has, in his opinion, become useless or unnecessary, or prohibit the use of any such drain either entirely or for the purpose of foul water drainage or for the purpose of surface drainage :

Provided that, if by reason of anything done under this section any person is deprived of the lawful use of any drain, the Mukhya Nagar Adhikari shall, as soon as may be, provide at the cost of the Mahapalika for his use some other drain as effectual as the one which has been discontinued, closed up or destroyed or the use of which has been prohibited.

Cleansing
drains

232. (1) The Mahapalika drains shall be so constructed, maintained and kept as to create the least practicable nuisance and shall be from time to time properly flushed, cleansed and emptied.

(2) For the purpose of flushing, cleansing and emptying the said drains, the Mukhya Nagar Adhikari may construct or set up such reservoirs, sluices, engines and other works as he shall from time to time deem necessary.

Drains of Private Streets and Drainage of Premises

Power to co
drain fo pr
street with M
palika drain.

233. The owner of a private street may, subject to his fulfilling the conditions to be prescribed connect the drain of such street with a Mahapalika drain.

Right of o
and occupie
buildings
lands to
into Mahap
drains

234. (1) Subject to the other provisions of this section, the owner or occupier of any premises shall be entitled to cause his drain to empty into a Mahapalika drain or other place lawfully set apart for the discharge of drainage :

Provided that nothing in this sub-section shall entitle any person—

(*a*) to discharge directly or indirectly into any Mahapalika drain any trade effluent except in accordance with the provisions of section 240 or any liquid or other matterthe discharge of which is prohibited by or under this Act or any other law for the time being in force ;

(*b*) where separate Mahapalika drains are provided for foul water and for surface water to discharge directly or indirectly—

(i) foul water into a drain provided for surface water ; or

(ii) except with the permission of the Mukhya Nagar Adhikari surface water into a drain provided for foul water ; or

(*c*) to have his drain made to communicate dirertly with a storm water overflow drain.

(2) Every person desirous of availing himself of the provisions of sub-section (1) shall obtain the written permission of the Mukhya Nagar Adhikari and shall comply with such conditions as the Mukhya Nagar Adhikari may prescribe as to the mode in which and the superintendence under which connections with Mahapalika drains or other places aforesaid are to be made.

(3) The Mukhya Nagar Adhikari may, if he thinks fit, in lieu of giving permission aforesaid under sub-section (2) himself so connect the drain or sewer after giving notice to the person concerned within fourteen days of the receipt of his application. In any case where the Mukhya Nagar Adhikari proceeds under this sub-section, the reasonable expenses of any work so done shall be paid by the person aforesaid.

Power of Mukhya Nagar Adhikari to require drain or proposed drain to be so constructed as to form part of general system

235. (1) Where a person proposes to construct a drain, the Mukhya Nagar Adhakari may, if he considers that the proposed drain is or is likely to be needed to form part of a general drainage system which the Mahapalika has provided or proposes to provide, require him to construct the drain in a manner differing, as regards material or size of pipes, depth, fall, direction or outfall or otherwise from the manner in which he proposes to construct, and thereupon it shall be the duty of such person to comply with the requisition of the Mukhya Nagar Adhikari.

(2) The Mukhya Nagar Adhikai shall reimburse from the Mahapalika Fund to the person constructing a drain in accordance with sub-section (1), the extra expenditure reasonably incurred by him in complying with the requisition and until the drain becomes a Mahapalika drain, he shall also from time to time reimburse to him from the Mahapalika Fund so much of any expenses reasonably incurred by him in repairing or maintaining it as may be attributable to the requisition having been made and complied with.

Connections with Mahapalika drains not to be made except in conformity with sections 233 and 234

236. Except as provided by sections 233 and 234 or as may be prescribed, no person shall make or cause to be made any connection of a drain belonging to himself or to some other person with any Mahapalika drain or other place lawfully set apart for the discharge of drainage, and the Mukhya Nagar Adhikari may, after giving notice to the person concerned, close, demolish, alter or remake any such connection made in contravention of this section, and the expenses incurred by the Mukhya Nagar Adhikari in so doing shall be paid by the owner of the street, or the owner or occupier of the premises, for the benefit of which the connection was made, or by the person offending.

Right of owners and occupiers of premises to carry drain through land belonging to other persons

237. (1) If it shall appear to the Mukhya Nagar Adhikari that the only means or the most convenient means by which the owner or occupier of any premises can cause his drain to empty into a Mahapalika drain or other place lawfully set apart for the discharge of drainage, is by carrying the same into, through or under any land belonging to some person other than the said owner or occupier, the Mukhya Nagar Adhikari may, by order in writing, authorize the said owner or occupier to carry his drain into, through or under the said land in such manner as he shall think fit to allow.

(2) No authorization shall be made under sub-section (1) except after notice to the owner of the land and considering the objection, if any, filed by him.

(3) Every such order under sub-section (1) bearing the signature of the Mukhya Nagar Adhikari shall be a complete authority to the person in whose favour it is made, or his agent or servant to enter after reasonable written notice, upon the said land with assistants and workmen, at any time between sunrise and sunset and to execute the necessary work.

(4) Subject to the provisions of this Act, the owner or occupier of any premises, any agent or person employed by him for this purpose, may, after giving or tendering to the owner of any land, wherein a drain has been already lawfully constructed for the drainage of his said premises, reasonable written notice of his intention so to do, enter upon the said land with assistants and workmen, at any time between sunrise and sunset and construct a new drain in the place of the existing drain or repair or alter any drain so constructed.

(5) In executing any work under this section as little damage, as may be, shall be done, and the owner or occupier of the premises for the benefit of which the work is done shall—

(*a*) cause the work to be executed with the least practicable delay

(*b*) fill in, reinstate and make good, at his own cost and with the least practicable delay, the ground or portion of any building or other construction opened, broken up or removed for the purpose of execuing the said work ;

(*c*) pay compensation to any person who sustains damage by the execution of the said work.

(6) If the owner of any land, into, through or under which a drain has been carried under this section whilst such land was unbuilt upon, shall subsequently at any time desire to erect a building on such land, the Mukhya Nagar Adhikari shall by written notice require the owner or occupier of the premises for the benefit of which such drain was constructed to close, remove or divert the same in such manner as shall be approved by the Mukhya Nagar Adhikari and to fill in, reinstate and make good the land as if the drain had not been carried into, through or under the same :

Provided that no such requisition shall be made, unless, in the opinion of the Mukhya Nagar Adhikari it is necessary or expedient, in order to admit of the construction of the proposed building or the safe enjoyment thereof, that the drain be closed, removed or diverted.

Mukhya Nagar Adhikari may enforce drainage of undrained premises situate within hundred feet of Mahapalika drain.

238. Where any premises are, in the opinion of the Mukhya Nagar Adhikari, without sufficient means of effectual drainage and a Mahapalika drain or some place lawfully set apart for the discharge of drainage is situate at a distance not exceeding one hundred feet from some part of the said premises the Mukhya Nagar Adhikari may, by written notice, require the owner or occupier of the said premises—

(*a*) to make a drain of such material, size, description and laid at such level and according to such alignment and emptying into such municipal drain or place aforesaid as the Mukhya Nagar Adhikari may consider necessary or suitable ;

b) to provide and set up and all such appliances and fittings as may appear to the Mukhya NagarAdhikari necessary for the purposes of gathering and receiving the drainage from and conveying the same off the said premises and of effectually flushing such drain and every fixture connected therewith ;

(*c*) to remove any existing drain, or other appliance or thing used or intended to be used for drainage, which in the opinion of the Mukhya Nagar Adhikari is injurious to health or to provide a closed drain in substitution of an open drain or to provide similarly such other appliances or things as he may consider necessary ;

(*d*) to provide and set up all such appliances and fittings as may appear to the Mukhya Nagar Adhikari to be necessary for the purpose of gathering and receiving the waste water from floors and galleries of buildings when they are washed, and conveying the same through spouts or by down-take pipes, so as to prevent such waste water from discharging directly on streets or inside any lower portion of the premises.

Mukhya Nagar Adhikari may enforce drainage of undrained premises not situate within hundred feet of Mahapalika drain

239. Where any premises are, in the opinion of the Mukhya Nagar Adhikari, without sufficient means of effectual drainage, but no Mahapalika drain is situated within one hundred feet from some part of the said premises, the Mukhya Nagar Adhikari may, by written notice, require the owner or occupier of the said premises—

(*a*) to construct a drain up to a point to be prescribed in such notice, but not distant more than one hundred feet from some part of the said premises ; or

(*b*) to construct a closed cesspool of such material, size and description in such position, at such level, and with allowance for such fall as the Mukhya Nagar Adhikari thinks necessary and also construct a drain or drains emptying into such cesspool.

Special provisions relating to trade effluent

240. Subject to the provisions of this Act, the rules and the bye-laws and any other law in that behalf, the occupier of any trade premises, may, discharge into the Mahapalika drains any trade effluent proceeding from those premises.

Power of Mukhya Nagar Adhikari to drain premises in combination

241. (1) Where the Mukhya Nagar Adhikari is of the opinion that any group or block of premises, any part of which is situated within one hundred feet of a Mahapalika drain, or other place set apart by the Mahapalika for the discharge of drainage already existing or about to be constructed, may be drained economically or advantageously in combination than separately, the Mukhya Nagar Adhikari may cause such group or block of premises drained by such method as appears to the Mukhya Nagar Adhikari to be best suited therefor, and the expenses incurred by the Mukhya Nagar Adhikari in so doing shall be paid by the owners of such premises in such proportions as the Mukhya Nagar Adhikari thinks fit.

(2) Not less than fifteen days before any work under this section is commenced the Mukhya Nagar Adhikari shall give, written notice to the owners of all the premises to be drained, of—

(*a*) the nature of intended work ;
(*b*) the estimated expenses thereof ; and
(*c*) the proportion of such expenses payable by each owner.

(3) The owners for the time being of the several premises constituting a group or block drained under sub-section (1) shall be the joint owners of every drain constructed, erected or fixed, or continued for the special use and benefit only of such premises, and shall in the proportions in which it is determined that the owners of such premises are to contribute to the expenses incurred by the Mukhya Nagar Adhikari under sub-section (1), be responsible for the expenses of maintaining every such drain in good repair and efficient condition :

Provided that every such drain shall from time to time be flushed, cleansed and emptied by the Mukhya Nagar Adhikari at the charge of the Mahapalika Fund.

Mukhya Nagar Adhikari may close or limit the use of existing private drains

242. (1) Where a drain connecting any premises with a Mahapalika drain or other place lawfully set apart for the discharge drainage, even though such drain is sufficient for the effectual drainage of the said premises and is otherwise unobjectionable, is not, in the opinion of the Mukhya Nagar Adhikari, adapted to the general drainage system of the City or of the part of the City in which such drain is situated, the Mukhya Nagar Adhikari may—

(*a*) subject to the provisions of sub-section (2), close, discontinue, or destroy the said drain and after notice to the owner or occupier of the premises, cause any work necessary for that purpose to be done ;

(*b*) direct that such drain shall, from such date as he may specify in this behalf, be used for sullage and sewage only, or for rain-water only or for unpolluted sub-soil water only, or for both rain-water and unpolluted sub-soil water only, and by written notice require the owner or occupier of the premises to make an entirely distinct drain for rain-water or unpolluted sub-soil water or for both rain-water and unpolluted sub-soil water, or for sullage and sewage.

(2) No drain may be closed, discontinued or destroyed by the Mukhya Nagar Adhikari under clause (*a*) of sub-section (1) except on condition of his providing another drain as effectual for the drainage of the premises and communicating with any Mahapalika drain or other place aforesaid which the Mukhya Nagar Adhikari thinks fit ; and the expense of the construction of any drain so provided by the Mukhya Nagar Adhikari and of any work done under the said clause shall be paid by the Mukhya Nagar Adhikari.

Vesting and maintenance of drains for sole use of properties

243. Subject to the provisions of sub-section (2) of section 228 every drain which has been constructed, laid, erected or set up, whether at the expense of Mahapalika or not, or which is continued for the sole use and benefit of any premises or group of premises shall—

(*a*) notwithstanding anything contained in section 244 vest in the owner of such premises, or group of premises on and from the appointed day ;

(*b*) be provided with all such further appliances and fittings as may appear to the Mukhya Nagar Adhikari necessary for the more effectual working of the same, and also be maintained in good repair and efficient condition by the owner of such premises or group of premises, and be from time to time flushed, cleansed and emptied by the Mukhya Nagar Adhikari at the charge of the Mahapalika Fund.

Right of Mahapalika to drains, etc. constructed at charge of Mahapalika Fund on premises not belonging to Mahapalika

244. All drains, ventilation-shafts and pipes and all appliances and fittings connected with drainage works constructed, erected or set up at any time at the charge of the Mahapalika Fund or at the charge of the funds of any local authority having jurisdiction in any part of the City before the date of the establishment of the Mahapalika upon any premises not belonging to the Mahapalika and otherwise than for the sole use and benefit of the premises or group of premises shall, unless the Mahapalika has otherwise determined, vest in the Mahapalika.

New buildings not to be erected without drains

245. (1) It shall not be lawful newly to erect any building or re-erect any building, or to occupy any building newly erected or re-erected unless and until—

(*a*) a drain be constructed of such size, material and description, at such level and with such fall as shall appear to the Mukhya Nagar Adhikari to be necessary for the effectual drainage of such building ;

(*b*) there have been provided for and set up in such building and in the premises appurtenant thereto, all such appliances and fittings as may appear to the Mukhya Nagar Adhikari to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said premises, and of effectually flushing the drain of the said building and every fixture connected therewith.

(2) The drain to be constructed as aforesaid shall empty into a Mahapalika drain or into some place lawfully set apart for the discharge of drainage situated at a distance not exceeding one hundred feet from the premises in which such building is situated; but if no such drain or place is within that distance then such drain shall empty into such cesspool as the Mukhya Nagar Adhikari may direct.

bligation o owners of drai to allow use o joint ownersh to others

246. Every owner of a drain connected with a Mahapalika drain or other place lawfully set apart for the discharge of drainage shall be bound to allow the use of it to others or to admit other persons as joint owners thereof, on such terms as may be prescribed under section 247.

How right of us or joint ownersh of a drain may b obtained by person other tha the owner

247. (1) Any person desiring to drain his premises into a Mahapalika drain through a drain of which he is not an owner, may make a private arrangement with the owner for permitting his use of the drain, or may apply to the Mukhya Nagar Adhikari for authority to use such drain or to be declared joint owner thereof.

(2) Where the Mukhya Nagar Adhikari is of opinion, whether on receipt of such application or otherwise, that the only, or the most convenient, means by which the owner or occupier of any premises can cause the drain of such premises to empty into a Mahapalika drain or other place legally set apart for the discharge of drainage is through a drain communicating with such Mahapalika drain or place aforesaid but belonging to some person other than the said owner or occupier, the Mukhya Nagar Adhikari, after giving the owner of the drain a reasonable opportunity of stating any objection thereto, may, if no objection is raised or if an objection is raised the same is disallowed by an order in writing, either authorize the said owner or occupier to use the drain or declare him to be a joint owner thereof, on such conditions as to the payment of rent or compensation and as to connecting the drain of the said premises with the communicating drain and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleansing and emptying the joint drain, or otherwise as may appear to him to be equitable.

(3) Every such order bearing the signature of the Mukhya Nagar Adhikari shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving or tendering to the owner of the drain the compensation or rent specified in the said order and otherwise fulfilling, as far as possible, the conditions of the said order and after giving to the owner of the drain reasonable written notice of his intention so to do, to enter upon the land in which the said drain is situate with assistants and workmen, at any time between sunrise and sunset, and, subject to all provisions of this Act, to do all such things as may be necessary for—

(*a*) connecting the two drains; or

(*b*) renewing, repairing or altering the connections; or

(c) discharging any responsibility attaching to the persons in whose favour the Mukhya Nagar Adhikari's order is made for maintaining, repairing, flushing, cleansing or emptying the joint drain or any part thereof.

(4) In respect of the execution of any work under sub-section (3) the person in whose favour the Mukhya Nagar Adhakari's order is made shall be subject to the same restrictions and liabilities which are specified in sub-section (4) of section 237.

Sewage and rain-water drains to be distinct

248. Whenever it is provided in this Chapter that steps shall or may be taken for the effectual drainage of any premises, the Mukhya Nagar Adhikari may require that there shall be one drain for sullage, excrementitious matter and polluted water and another and an entirely distinct drain for rain-water and unpolluted sub-soil water, or for both rain-water and unpolluted sub-soil water each emptying into separate Mahapalika drains or other places lawfully set apart for the discharge of drainage or other suitable places.

Affixing of pipes for ventilation of drains, etc.

249. (1) For the purpose of ventilating any drain or cesspool, whether belonging to the Mahapalika or to any other person, the Mukhya Nagar Adhakari may erect upon any premises or affix to the outside any building or to any tree any such shaft or pipe as sall appear to the Mukhya Nagar Adhakari necessary and cut through any projection from any building including the eaves of any roof thereof in order to carry up such shaft or pipe through any such projection and lay in, through, or under any land such appliances as may in the opinion of the Mukhya Nagar Adhikari be necessary for connecting such ventilating shaft or pipe with the drain or cesspool intended to be ventilated.

(2) Such shaft or pipe shall be erected or affixed or removed in such a manner as may be prescribed.

(3) If the Mukhya Nagar Adhikari declines to remove a shaft or pipe when so required by the owner of the premises, building or tree, upon or to which the same has been erected or affixed, in accordance with the rules made in this behalf, the owner may within fifteen days of the receipt by him of the reply of the Mukhya Nagar Adhikari apply to the Judge for an order that the same be removed.

(4) In the hearing and the disposal of the application under sub-section (3), the Judge shall follow such procedure as may be prescribed, and the order passed by the Judge shall be final and binding upon the parties.

(5) Where the owner of any building or land cut through, opened or otherwise dealt with under sub-section (1) is not the owner of the drain or cesspool intended to be ventilated, the Mukhya Nagar Adhikari shall, so far as practicable, reinstate and make good such building, and fill in and make good such land, at the charge of the Mahapalika Fund.

Disposal of Sewage

Appointment places for emp ing of drai and disposal sewage

250. The Mukhya Nagar Adhikari may cause all or any Mahapalika drains to empty into any place, whether within or without the City, and dispose of the sewage at any place whether within or without the City, and in any manner which he shall deem suitable for such purpose :

Provided that—

(*a*) the Mukhya Nagar Adhikari shall not cause any Mahapalika drain to empty into any place into which a Mahapalika drain has not heretofore emptied, or dispose of sewage of any place or in any manner at or in which sewage has not heretofore been disposed of, without the sanction of the Mahapalika;

(*b*) no Mahapalika drain shall be made to empty into any place, and no sewage shall be disposed of at any place or in any manner which the State Government shall think fit to disallow.

Provision means for posal of sewa

251. The Mukhya Nagar Adhikari may, for the purpose of receiving, treating, storing, disinfecting, distributing or otherwise disposing of sewage, construct any work within or without the City or purchase or take on lease any land, building, engine, material or apparatus either within or without the City or enter into any arrangement with any person for any period not exceeding twenty years for the removal or disposal of sewage within or without the City.

Water-closets, Privies, Urinals, etc.

Construction water-closets privies

252. (1) It shall not be lawful to construct any water-closet or privy for any premises except with the written permission of the Mukhya Nagar Adhikari and in accordance with such terms not being inconsistent with any rule or bye-law for the time being in force, as he may prescribe.

(2) In prescribing any such terms the Mukhya Nagar Adhikari may determine in each case—

(*a*) whether the premises shall be served by the water-closet or by the privy system, or partly by one and partly by the other ; and

(*b*) what shall be the site or position of each water-closet or privy.

(3) If any water-closet or privy is constructed on any premises in contravention of sub-section (1), the Mukhya Nagar Adhikari, may, after giving not less than ten days notice to the owner or occupier of such premises, close such water-closet or privy and alter or demolish the same, and the expenses incurred by the Mukhya Nagar Adhikari, in so doing shall be paid by such owner or occupier or by the person offending.

Water-closets and other accommodation in buildings newly erected or re-erected

253. (1) It shall not be lawful to erect or to re-erect or convert within the meaning of section 315 any building for, or intended for, human habitation at or in which labourers or workmen are to be employed, without such water-closet or privy accommodation and such urinal accommodation and accommodation for bathing or for the washing of clothes and domestic utensils of such building as the Mukhya Nagar Adhikari may prescribe.

(2) In prescribing any such accommodation the Mukhya Nagar Adhikari may determine in each case—

(*a*) whether such building or work shall be served by the water-closet or by the privy system, or partly by one and partly by the other;

(*b*) what shall be the site or position of each water-closet, privy, urinal or bathing or washing place and their number.

(3) In determining the accommodation to be required under sub-section (2) the Mukhya Nagar Adhikari shall have regard to the necessity of providing adequate and suitable water-closet or privies and bathing places for domestic servants employed by the occupants of the building.

Public necessities

254. The Mukhya Nagar Adhikari shall provide and maintain in proper and convenient situations water-closets, latrines, privies and urinals, and other similar conveniences for public accommodation.

Inspection

Drains, etc., no belonging to Mahapalika, to be subject to inspection and examination

255. (1) All drains, ventilation shafts and pipes, cesspools, house-gullies, water-closets, privies, latrines and urinals and bathing and washing places which do not belong to the Mahapalika or which have been constructed, erected or set up at the charge of the Mahapalika Fund on premises not belonging to the Mahapalika, for the use or benefit of the owner or occupier of the said premises, shall be open to inspection and examination by the Mukhya Nagar Adhikari.

(2) The Mukhya Nagar Adhikari may, in the course of an inspection or examination under sub-section (1) obtain and take away a sample of any trade effluent which is passing from the premises inspected or examined into a Mahapalika drain. The analysis of such sample shall be made in the manner prescribed.

(3) The results of any analysis of the sample taken under sub-section (2) shall be admissible as evidence in any legal proceedings under this Act.

Power to open ground, etc. for purposes of inspection or examination.

256. For the purpose of such inspection or examination the Mukhya Nagar Adhikari may cause the ground or any portion of any drain or other work exterior to a building, which he shall think fit, to be opened, broken up or removed :

Provided that in the prosecution of any such inspection and examination as little damage as possible shall be done.

Mukhya Nag Adhikari m require repain etc. to be mad

257. When as a result of any inspection or examination under section 255 the Mukhya Nagar Adhikari finds that any drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, latrine, urinal or bathing or washing place is not in good order or condition or, except when the same has been erected by or under the order of the Mukhya Nagar Adhikari, if it has been constructed in contravention of any of the provisions of this Act or the rules or bye-laws or of any enactment for the time being in force, the Mukhya Nagar Adhikari may require the owner by written notice to remove the defect in such manner as he may, subject to any rules or bye-laws in force, direct.

General Provisions

Prohibition acts contrav ing the provisi of the Act, r or bye-laws done witho sanction

258. (1) No person shall—

(*a*) in contravention of any of the provisions of this Act or rules or bye-laws or of any notice issued or direction given under this Act or without the written permission of the Mukhya Nagar Adhikari, in any way alter the fixing, disposition or position of, or construct, erect, set up, renew, rebuild, remove, obstruct, stop up, destroy, or change any drain, ventilation-shaft or pipe, cesspool, water-closet, privy, latrine or urinal or bathing or washing place or any trap, covering or other fitting or appliance connected therewith ;

(*b*) without the written permission of the Mukhya Nagar Adhikari, renew, rebuild or unstop any drain, ventilation-shaft or pipe, cesspool, water-closet, privy, latrine or bathing or washing place or any fitting or appliance, which has been or has been ordered to be discontinued, demolished or stopped up under any of the provisions of this Act or the rules or bye-laws ;

(*c*) without the written permission of the Mukhya Nagar Adhikari, make any projection over or encroachment upon or in any way injure or cause or permit to be injured, any drain, cesspool, house-gully, water-closet, privy, latrine or urinal or bathing or washing place :

Provided that nothing in this clause shall apply to any weather-shade in width not exceeding three feet over any window which does not front a wall or window of any adjoining house ;

(*d*) drop, pass or place, or cause or permit to be dropped, passed or placed, into or in any drain any brick, stone, earth, ashes, dung or any substance or matter which is likely to injure the drain or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents;

(e) pass or permit or cause to be passed, into any drain provided for a particular purpose any matter or liquid for the conveyance of which such drain has not been provided;

(f) except as provided by or under this Act cause or suffer to be discharged into any drain any chemical refuse or waste steam or any liquid of temperature higher than one hundred and twenty degrees Fahrenheit, being refuse or steam which when so treated is, either along or in combination with the contents of the drain, dangerous or the cause of a nuisance or prejudicial to health;

(g) cause or suffer to be discharged into any drain, carbide of calcium or any such crude petroleum, any such oil made from petroleum, coal, shale or bituminous substances, or such product of petroleum or mixture containing petroleum as gives off under test an inflammable vapour at a temperature of less than seventy-three degrees Fahrenheit.

(2) If the person carrying out any work or doing any act in contravention of the clauses of sub-section (1) is not at the time of notice the owner of such building or work then the owner of such building or work shall be deemed to have been responsible for carrying out all such requisitions in the same way as the person so carrying out would have been liable.

Water-closets not to be injured or improperly fouled

259. (1) No person shall injure or foul any water-closet, privy, urinal or bathing or washing place or any fittings or appliances in connection therewith which have been provided for the use in common of the inhabitants of one or more buildings.

(2) If any such water-closet, privy, urinal or bathing or washing place or any fitting or appliance in connection therewith or the approaches thereto or the walls, floors or seats or anything used in connection therewith are in such a state as to be nuisance or source of annoyance to any inhabitants of the locality or passer-by for want of proper cleaning thereof, such of the persons having the use thereof as may be in default or in the absence of evidence as to which of the persons having the use thereof in common is in default, every such person shall be deemed to have contravened the provisions of this section.

(3) The provisions of this section shall not exempt the owner of the building or buildings from any penalty to which he may otherwise have rendered himself liable.

State Government may extend provisions of Chapter outside limits of City

260. The State Government may, by order which shall be published in the official *Gazette* apply to any area to be specified in the order but not lying beyond a distance of two miles from the limits of the City, the provisions of any section in this Chapter and of rules made thereunder, subject to such adaptations whether by way of modification, addition or omission, as it may deem to be necessary and expedient and thereupon the provision and rules so applied shall have effect in that area as if it were within the City.

261. Any person aggrieved by— Appeals

(*a*) a declaration under sub-section (1) of section 229, or

(*b*) notice under sub-section (1) of section 230 to connect the drain or sewer, or

(*c*) the requisition of the Mukhya Nagar Adhakari under sub-section (1) of section 235 to construct a drain in a different manner, or

(*d*) a notice of the Mukhya Nagar Adhikari under section 236 of his intention to close, demolish, alter or remake any connection, or

(*e*) an order of the Mukhya Nagar Adhikari under sub-section (1) of section 237 authorizing as owner or occupier to carry his drain into, through or under the land of another person, or

(*f*) a notice of the Mukhya Nagar Adhikari under sub-section (6) of section 237 requiring the owner or occupier of any premises to close, remove or divert the drain in a particular manner, or

(*g*) a notice of the Mukhya Nagar Adhikari under section 239, or

(*h*) a notice under clause (*a*) or a direction or notice under clause (*b*) of sub-section (1) of section 242 issued by the Mukhya Nagar Adhikari, or

(*i*) a notice under sub-section (3) of section 252 of the Mukhya Nagar Adhikari's intention to close any water-closet or privy or to alter or demolish it, or

(*j*) a notice under section 257 requiring the owner to remove defects in any washing place,

may, within the prescribed time and in the prescribed manner, appeal to the Judge.

262. (1) The State Government may make rules for the purposes of carrying into effect the provisions of this Chapter, Power to rules

(2) Without prejudice to the generality of the foregoing powers such rules may provide for—

(*a*) filing and disposal of objections to any notice under sub-section (3) of section 229 ;

(*b*) the conditions and restrictions to be observed with reference to drains ;

(*c*) the construction, maintenance, improvement, alteration and discontinuance of drains;

(*d*) the conditions for connections with municipal drains;

(*e*) the conditions on which occupiers of trade premises may discharge any trade effluent into Mahapalika drains ;

(*f*) the manner in which samples of trade effluent shall be analysed ;

(*g*) the conditions to be observed in erecting or affixing ventilation-shafts or pipes under section 249 ;

(*h*) the construction, position and maintenance of water-closets, privies, urinals, bathing places or washing places ;

(*i*) the manner in which the Mukhya Nagar Adhikari shall exercise his powers under sections 255 and 256 ;

(*j*) payment of expenses of inspection and examination under sections 255 and 256 ;

(*k*) the manner of filing and disposal of appeals filed under section 261 and the period within which appeals may be filed.

(*b*) alter the surface of any Mahapalika land adjacent to or forming part of any such work by digging thereinto or depositing thereon any substance ;

(*c*) cause or suffer to enter into the water in such work any animal;

(*d*) throw or put anything into or upon the water in such work ;

(*e*) bathe in or near such work; or

(*f*) wash or cause to be washed in or near such work any animal or thing.

Remedy agains
acts in contraven
tion of section 26
and removal o
latrines, etc. nea
any source o
water-supply

268. (1) For any building, wall or structure erected or re-erected in contravention of the provisions of sub-section (1) of section 267 or any building erected in contravention of clause (*a*) of sub-section (2) of section 267, the Mukhya Nagar Adhikari may, with the approval of the Executive Committee, cause the same to be removed or otherwise dealt with as shall appear fit to him and the expenses thereby incurred shall be paid by the person offending.

(2) If any person persists in acting in contravention of the provisions of clauses (*b*), (*c*) and (*d*) of sub-section (2) of section 267, the Mukhya Nagar Adhikari may, with the approval of the Executive Committee, take measures including the use of such minimum force, as may be necessary, to stop further contravention of the provisions of the aforesaid clauses.

(3) The Mukhya Nagar Adhikari may by notice require the owner or occupier on whose land a drain, privy, latrine, urinal, cesspool or other receptacle for filth or refuse exists within fifty feet of a spring, well, tank, reservoir, river or other source from which water is, or may be, derived for public use, to remove or close the same within one week from the service of such notice and if such owner or occupier fails to comply with the demand within the time allowed, the Mukhya Nagar Adhikari, may cause the same to be removed or closed and the expenses thereby incurred shall be paid by the person offending.

Obligations o
Mahapalika
imposing wate
tax

269. Where water-tax is levied on any buildings or land it shall be incumbent on the Mukhya Nagar Adhikari to make provision for supply of water to owners and occupiers of such buildings or land in such manner, during such time and in such quantity as may be prescribed by rules :

Provided that the Mahapalika shall not be liable to any forfeiture, penalty or damages for failure to supply water if the same arises from accident or from unusual drought or other unavoidable causes.

Prohibition o
fraudulent an
unauthorized u
of water

270. (1) No person shall fraudulently dispose of any water supplied to him by the Mahapalika.

(2) No person to whom a private supply of water is furnished by the Mahapalika shall, except when the water-supply is charged for by measurement, permit any person who does not reside on premises in respect of which water-tax is paid to carry away water from the premises to which it is supplied.

(3) No person who does not reside on premises in respect of which water-tax is paid shall carry away water from any premises to which the private supply is furnished by the Mahapalika, unless in any case in which supply is charged for by measurement, he does so with the permission of the person to whom the said supply is furnished.

Power to make rules

271. (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing powers such rules may provide for—

(*a*) the maintenance, cleansing, efficient running and closure of a private water course, etc. within the limits of the Mahapalika ;

(*b*) the provision for suitable measures for the inspection, disinfecting of any well, tank or other places from which water is likely to be taken for the purpose of drinking and for such steps as may be deemed necessary to prevent removal of water from the same ;

(*c*) the supply of water by agreement to any owner or occupier of a land or building within the limits of the Mahapalika with conditions and rates therefor;

(*d*) purposes for the supply of water ;

(*e*) precedence in the matter of supply of water for domestic purpose over all other purposes ;

(*f*) the installation of water meters and connection pipes ;

(*g*) the size and nature of the meters, pipes, stand-pipes or pumps and hydrants, the manner in which they will be laid, constructed, controlled and maintained, with a view to maintain an efficient supply of water ;

(*h*) the mains or pipes in which fire plugs are to be fixed and the places at which keys of the fire plugs are to be deposited ;

(*i*) the periodical analysis by a qualified analyst of the water-supply by the Mahapalika ;

(*j*) the conservation and prevention of injury or contamination to sources and means of water-supply and appliances for the distribution of water, whether within or without the limits of the Mahapalika;

(*k*) the manner in which connections with waterworks may be constructed or maintained and the agency which shall or may be employed for such construction or maintenance ;

(*l*) the regulation of all matters for the supply of water including the turning on and turning off and preventing the waste of water, and

m) the supply of water outside the limit of the Mahapalika and the collection of water-taxes and of charges relating to such supply and the prevention of evasion of the taxes.

CHAPTER XII

STREETS

Construction, Maintenance and Improvement of Streets

Vesting of public streets in Mah palika

272. (1) Subject to any special reservation made by the State Government from time to time all streets within the City being, or which at any time become, public streets, except streets which on the appointed day vested in the State Government or the Central Government or after the said day may be constructed and maintained by an authority other than the Mahapalika, with the soil, sub-soil and the side drains, footways, pavements, stones and other materials thereof, shall vest in the Mahapalika and be under the control of the Mukhya Nagar Adhikari.

(2) The State Government may after consulting the Mahapalika by notification withdraw any such street with the soil, sub-soil and the side drains, footways, pavements, stones and other materials thereof from the control of the Mahapalika.

Power of Mukhya Nagar Adhikari in respect of publ streets

273. (1) The Mukhya Nagar Adhikari shall from time to time cause all public streets vested in the Mahapalika to be levelled, metalled or paved, channelled, altered and repaired, as occasion shall require, and may also from time to time widen, extend or otherwise improve any such street or cause the soil thereof to be raised, lowered or altered and may place and keep in repair fences and posts for the safety of pedestrians :

Provided that no widening, extension or other improvement of a public street, the aggregate cost of which will exceed five thousand rupees or such higher amount as the Mahapalika may from time to time fix, shall be undertaken by the Mukhya Nagar Adhikari unless or until such undertaking has been authorized by the Mahapalika.

(2) With the sanction of the Mahapalika given in accordance with the rules and bye-laws in force in that behalf, the Mukhya Nagar Adhikari may turn, divert, discontinue the public use of, or permanently close the whole or any part of a public street vested in the Mahapalika and upon such closure may, subject to the previous sanction of the State Government and the Mahapalika dispose of the site of such street, or of the portion thereof which has been closed, as land vesting in the Mahapalika.

Power to make new public streets

274. The Mukhya Nagar Adhikari, when authorized by the Mahapalika in this behalf, may at any time—

(*a*) lay out and make a new public street ;

(*b*) agree with any person for the making of a street for public use through the land of such person, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the Mahapalika, and may further agree that such street shall, on completion, become a public street and vest in the Mahapalika;

(*c*) construct tunnels, bridges, causeways and other works subsidiary to the layout and making of a new public street ;

(*d*) divert or turn an existing public street vested in the Mahapalika or a portion thereof.

Minimum width of new public street

275. (1) The Mahapalika shall from time to time specify the minimum width for different classes of public streets according to the nature of the traffic likely to be carried thereon, the localities in which they are situated, the heights up to which buildings abutting thereon may be erected and other similar considerations.

(2) The width of a new public street made under section 274 shall not be lees than that prescibed under sub-section (1) for the class to which it belongs, and no steps and, except with the written permission of the Mukhya Nagar Adhikari under section 293 no other projections shall project over or extend into any such street.

(3) The Mukhya Nagar Adhikari may, with the approval of the Executive Committee, by written notice rquire the owner or occupier of any premises to remove or to take such order as he may direct with any projection existing within the minimum width of any street specified under sub-section (1):

Provided that if in any such case the projection was lawfully erected or set up, compensation shall be paid by the Mukhya Nagar Adhikari to every person who sustains loss or damage by the removal or alteration thereof.

Power to adopt, construct or alter any sub-way bridge, etc.

276. The Mukhya Nagar Adhikari when authorized by the Mahapalika in this behalf, may agree with any person—

(*a*) to adopt and maintain any existing or projected sub-way bridge, viaduct or arch, and the approaches thereto, and may accordingly adopt and maintain such sub-way, bridge, viaduct or arch and approaches as parts of public streets, or as property vested in the Mahapalika, or

(*b*) for the construction or alteration of any such sub-way, bridge, viaduct or arch or for the purchase or acquisition of any adjoining land required for the foundations and support thereof or for the approaches thereto, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the Mahapalika.

Power to prohibit use of public streets for cetain kinds of traffic

277. (1) It shall be lawful for the Mukhya Nagar Adhikari with the sanction of the Mahapalika to—

(*a*) prohibit vehicular traffic in any particular public street vesting in the Mahapalika so as to prevent danger, obstruction or inconvenience to the public by fixing up posts at both end of such street or portion of such street ;

(*b*) prohibit in respect of all public streets, or particular public streets, the transit of any vehicle of such form, construction, weight or size or laden with such heavy or unwieldy objects as may be deemed likely to cause injury to the road ways or any construction thereon, or risk or obstruction to other vehicles or to pedestrians along or over such street or streets, except under such conditions as to time, mode of traction or locomotion, use of appliances for protection of the roadways, number of lights and assistants, and other general precautions and the payment of special charges as may be specified by the Mukhya Nagar Adhikari generally or specially in each case.

(2) Notices of such prohibitions as are imposed under sub-section (1) shall be posted up in conspicuous places at or near both ends of the public streets or portions thereof to which they relate, unless such prohibitions apply generally to all public streets.

Power to acqu premises f improvement public streets

278. (1) The Mukhya Nagar Adhikari may, subject to the provisions of this Act and the rules—

(*a*) acquire any land required for the purpose of opening, widening, extending, diverting or otherwise improving any public street, bridge or sub-way or of making any new public street, bridge or sub-way and the buildings, if any, standing upon such land ;

(*b*) acquire in addition to the said land and the buildings, if any, standing thereon, all such land with the buildings, if any, standing thereon, as it shall seem expedient in the public interest to acquire outside of the regular line, or of the intended regular line, of such streets ;

(*c*) lease, sell or otherwise dispose of any land or building acquired under clause (*b*).

(2) The acquisition of land for providing, extending or improving a place for the parking of vehicles shall be deemed to be acquisition of land for the purpose of providing, extending or improving a public street.

(3) Any conveyance of land or of a building under clause (*c*) of sub-section (1) may comprise such conditions as the Mukhya Nagar Adhikari thinks fit, as to the removal of the existing building, the description of new building to be erected, the period within which such new building shall be completed and other such matters.

Power to pr scribe stre lines

279. (1) The Mukhya Nagar Adhikari may prescribe a line on one or both sides of any public street :

Provided that every regular line of a public street operative under any law for the time being in force in any part of the City on the day immediately preceding the appointed day shall be deemed to be a line prescribed under this Act until a fresh line as prescribed by the Mukhya Nagar Adhikari under this section :

Provided further that whenever it is proposed to prescribe fresh line in substitution for any existing line or for any par thereof, previous approval of the Executive Committee shall be had.

(2) The line for the time being prescribed shall be called the regular line of the street.

(3) A register with plans attached shall be kept by the Mukhya Nagar Adhikari showing all public streets in respect of which a regular line of the street has been prescribed and such register shall contain such particulars as to the Mukhya Nagar Adhikari may appear to be necessary and shall be open to inspection by any person upon payment of such fee as may from time to time be prescribed by the Executive Committee.

(4) (*a*) Subject to the provisions of sub-section (5) no person shall construct or reconstruct any portion of any building on and within the regular line of the street except with the written permission of the Mukhya Nagar Adhikari and in accordance with the conditions imposed therein and the Mukhya Nagar Adhikari shall in every case in which he gives such permission, at the same time, report his reasons in writing to the Executive Committee.

(*b*) No person shall construct or reconstruct any boundary wall or a portion of a boundary wall within the regular line of the street except with the written permission of the Mukhya Nagar Adhikari :

Provided that if, within sixty days after the receipt of an application from any person for permission to construct or reconstruct a boundary wall or a portion thereof, the Mukhya Nagar Adhikari fails to acquire the land within the regular line of the street under section 282, the person may, subject to any other provisions of this Act or the rules or bye-laws, proceed with the work of construction or reconstruction of such boundary wall or a portion thereof, as the case may be.

(5) (*a*) When the Mukhya Nagar Adhikari grants permission under clause (*a*) of sub-section (4) for the construction or reconstruction of any building on land within the regular line of the street he may require the owner of the building to execute an agreement binding himself and his successors-in-title not to claim compensation in the event of the Mukhya Nagar Adhikari at any time thereafter calling upon him or any of his successors by written notice to remove any work carried out in pursuance of such permission or any portion thereof and to pay the expenses of such removal if, in default, such removal is carried out by the Mukhya Nagar Adhikari.

(*b*) The Mukhya Nagar Adhikari may before granting such permission require the owner to deposit in the Mahapalika office an amount sufficient in his opinion to cover the cost of removal and such compensation, if any, as may be payable to any successor-in-title or transferee of such building.

Setting back buildings to the regular line of the street

280. (1) If any building or any part of a building abutting on a public street is within the regular line of the street, the Mukhya Nagar Adhikari may, whenever it is proposed—

(*a*) to rebuild such building or to take down such building to an extent exceeding one-half thereof above the ground level, such half to be measured in cubic feet ; or

(*b*) to remove, reconstruct or make any addition to or structural alteration in any portion of such building which is within the regular line of the street,

require such building to be set back to the regular line of the street.

(2) When any building or any part thereof within the regular line of the street falls down or is burnt down or is taken down whether under the provisions of this Act or otherwise, the Mukhya Nagar Adhikari may at once take possession on behalf of the Mahapalika of the portion of land within the regular line of the street theretofore occupied by the said building and, if necessary, clear the same.

(3) Land acquired under this section shall thenceforward be deemed a part of the public street and shall vest, as such, in the Mahapalika.

Additional po of Muk Nagar Adh to order se back of build to regular lir street

281. (1) Where any building or any part thereof is within the regular line of a public street and if, in the opinion of the Mukhya Nagar Adhikari, it is necessary to set back the building to the regular line of the street he may, if the provisions of section 280 do not apply, by written notice require the owner of such building to show cause within a period to be specified, why such building or any part thereof which is within the regular line of the street be not pulled down and the land within the said line acquired by the Mukhya Nagar Adhikari.

(2) If in pursuance of the notice under sub-section (1) the owner f to show sufficient cause to the satisfaction of the Mukhya Nagar Adhikari, the Mukhya Nagar Adhikari may, with the approval of the Executive Committee, require the owner by a written notice to pull down the building or the part thereof which is within the regular line of the street within a period to be specified in the notice.

(3) If within the period specified in the notice under sub-section (2) the owner of such building fails to pull down the building or any part thereof coming within the said line, the Mukhya Nagar Adhikari may pull down the same and recover all the expenses incurred in so doing from the owner.

(4) The Mukhya Nagar Adhikari shall also take possession on behalf of the Mahapalika of the portion of the land within he said line theretofore occupied by the said building, and such and shall thenceforward be deemed a part of the public street and shall vest, as such, in the Mahapalika.

(5) Nothing in this section shall be deemed to apply to buildings vesting in the State.

Acquisition of open land or of land occupied by platforms, etc. within regular line of street

282. If any land not vesting in the Mahapalika whether open or closed, lies within the regular line of a public street and is not occupied by a building, or if a platform, verandah, step, compound wall, hedge or fence or some other structure external to a building, abutting on a public street or a portion of a platform, verandah, step, compound wall, hedge, or fence or other such structure, is within the regular line of such street, the Mukhya Nagar Adhikari may, after giving to the owner of the land or building not less than fourteen clear days written notice of his intention to do so, and after hearing any objection which may be filed during this time take possession on behalf of the Mahapalika of the said land within its enclosing wall, hedge or fence, if any, or of the said platform, verandah, step or other such structure as aforesaid or of the portion of the said platform, verandah, step or other such structure as aforesaid which is within the regular line of the street and, if necessary, clear the same and the land so acquired, shall thenceforward be deemed a part of the public street:

Provided that when the land or building is vested in the State Government or the Central Government, possession shall not be taken as aforesaid, without the previous sanction of the Government concerned and, when the land or building is vested in any Mahapalika constituted by any law for the time being in force, possession shall not be taken as aforesaid, without the previous sanction of the State Government.

Acquisition of the remaining parts of building and land after their portions within a regular ine of the street are acquired

283. (1) If a building or land is partly within the regular line of a public street and if the Mukhya Nagar Adhikari is satisfied that the land remaining after the exclusion of the portion within the said line will not be suitable or fit for any beneficial use, he may, at the request of the owner, acquire such land in addition to the land within the said line and such surplus land shall be deemed to be a part of the public street vesting in the Mahapalika

(2) Such surplus land may thereafter be utilized for the purpose of setting forward of buildings under section 284.

eting forward f buildings to the ne of the street

284. (1) If any building which abuts on a public street is in rear of the regular line of such street, the Mukhya Nagar Adhikari may, whenever it is proposed—

(*a*) to rebuild such building, or

(*b*) to alter or repair such building in any manner that will involve the removal or re-erection of such building, or of the portion thereof which abuts on the said street to an extent exceeding one-half of such building or portion thereof above the ground level, such half to be measured in cubic feet.

in any order which he issues concerning the rebuilding, alteration or repair of such building, permit or with the approval of the Executive Committee, require such building to be set forward to the regular line of the street.

(2) For the purpose of this section, a wall separating any premises from a public street shall be deemed to be a building; and it shall be deemed to be a sufficient compliance with a premission or requisition to set forward a building to the regular line of a street if a wall of such materials and dimensions as are approved by the Mukhya Nagar Adhikari, is erected along the said line.

Compensation be paid betterment char to be levied

285. (1) Compensation shall be paid by the Mukhya Nagar Adhikari to the owner of any building or land required for a public street under section 280, 281, 282 or 283 for any loss which such owner may sustain in consequence of his building or land being so acquired and for any expense incurred by such owner in consequence of the order made by the Mukhya Nagar Adhikari :

Provided that—

(i) any increase or decrease in the value of the remainder of the property of which the building or land so acquired formed part likely to accrue from the set-back to the regular line of the street shall be taken into consideration and allowed for in determining the amount of such compensation ;

(ii) if any such increase in value exceeds the amount of loss sustained or expenses incurred by the said owner, the Mukhya Nagar Adhikari may recover from such owner half the amount of such excess as a betterment charge.

(2) If in consequence of an order to set forward a building made by the Mukhya Nagar Adhikari under section 284, the owner of such building sustains any loss or damage, compensation shall be paid to him by the Mukhya Nagar Adhikari for such loss or damage after taking into account any increase in value likely to accrue from the set-forward.

(3) If the additional land which will be included in the premises of any person required or permitted under section 284 to set forward a building belongs to the Mahapalika, the order or permission of the Mukhya Nagar Adhikari to set forward the building shall be sufficient conveyance to the said owner of the said land and the price to be paid to the Mahapalika by the said owner for such additional land and the other terms and conditions of the conveyance shall be set forth in the said order or permission.

(4) If, when the Mukhya Nagar Adhikari requires a building to be set forward, the owner of the building is dissatisfied

with the price fixed to be paid to the Mahapalika or any of the other terms or conditions of the conveyance, the Mukhya Nagar Adhikari, shall, upon the application of the said owner at any time within fifteen days after the said terms and conditions are communicated to him refer the case for the determination of the Judge.

Provisions regarding Private Streets

Owner's obligation to make a street when disposing of land is building sites

286. If the owner of any land utilizes, sells, leases or otherwise disposes of such land or any portion or portions of the same as site for the construction of buildings, he shall save in such cases as the site or sites may abut on an existing public or private street, lay down and make a street or streets or road or roads giving access to the site or sites and connecting with an existing public or private street.

Notice of laying out lands for building and for private streets

287. (1) Every person who intends—

(*a*) to sell or let on lease any land subject to a covenant or agreement on the part of a purchaser or lessee to erect buildings thereon ;

(*b*) to divide land (whether unbuilt or partly built) into building plots; or

(*c*) to use any land or a portion thereof or permit the same to be used for building purposes; or

(*d*) to make or lay out a private street, whether it is intended to allow the public a right of passage or access over such street or not ;

shall give written notice of his intention to the Mukhya Nagar Adhikari in the manner laid down in the rules and bye-laws.

(2) The Mukhya Nagar Adhikari shall proceed with the notice under sub-section (1) in the manner prescribed by rules and bye-laws and subject to such general directions as the Executive Committee may give in this behalf from time to time, determine the laying out of land for building, the dimensions and area of each building plot, the level, direction, width and means of drainage of every private street, the kind and number of trees to be planted and reared beside such streets and the height and means of drainage and ventilation of and access to all buildings to be erected on such land or on either side of such street :

Provided that if the Mukhya Nagar Adhikari neglects or omits for sixty days after the receipt of the notice under sub-section (1) or of the plans, sections, descriptions, schemes, or further information, if any, called for under the rules, to communicate to the person who gave the notice his disapproval with regard to any of the matters such person may, by a written communication call the attention of the Mukhya Nagar Adhikari to the neglect or omission and if such neglect or omission continues for a further period of thirty days from the date of the receipt of the written communication by the Mukhya Nagar Adhikari, the proposal of the said person shall be deemed to have been approved by the Mukhya Nagar Adhikari:

Provided further that nothing contained herein shall be construed to authorize any person to act in contravention of any provisions of the Act or any bye-laws.

(3) When the Mukhya Nagar Adhikari signifies in writing to the said person his approval of the said work under certain conditions or without any conditions, or when the said work is deemed to have been approved by the Mukhya Nagar Adhikari as aforesaid, the said person may at any time within one year from the date of the delivery of the notice under sub-section (1) to the Mukhya Nagar Adhikari, proceed with the said work in accordance with the intention as described in the notice or in any of the documents aforesaid and in accordance with the conditions, if any, prescribed by the Mukhya Nagar Adhikari, but not so as to contravene any of the provisions of this Act or any rule or bye-law.

Land not to appropriated building and pr street not to be out until expin of notice

288. (1) No person shall sell, let, use or permit the use of any land whether undeveloped or partly developed for building or divide any such land into building plots, or make or lay out any private street—

(*a*) without complying with the provisions of section 286;

(*b*) unless such person has given previous written notice of his intention as provided in section 287 nor until the expiration of sixty days from delivery of such notice, nor otherwise than in accordance with such directions (if any), as may have been fixed and determined under sub-section (2) of section 287

(*c*) after the expiration of the period of one year specified in sub-section (3) of section 287 ;

Provided that if a person who is entitled to proceed with any work under sub-section (3) of section 287 fails so to do within the period of one year specified therein he may at any time give fresh notice of his intention to execute such work and such notice shall be treated as a new notice under sub-section (1) of section 287;

(*d*) unless such person gives written notice to the Mukhya Nagar Adhikari of the date on which he proposes to proceed with any work which he is entitled to carry out and commences such work within seven days of the date mentioned in the notice.

(2) If any act be done or permitted in contravention of this section, the Mukhya Nagar Adhikari may by written notice require any person doing or permitting such act—

(*a*) to show cause on or before such day as shall be specified in such notice by statement in writing subscribed by him in that behalf and addressed to the Mukhya Nagar Adhikari, why the laying out, plotting, street or building contravening this section should not be altered to the satisfaction of the Mukhya Nagar Adhikari, or, if that be in his opinion impracticable, why such street or building should not be demolished or removed or why the land should not be restored to the condition in which it was prior to the execution of the unauthorized work, or

(*b*) to attend personally or by an agent duly authorized by him in that behalf on such day and at such time and place as shall be specified in such notice and show cause as aforesaid.

(3) If such person shall fail to show cause to the satisfaction of the Mukhya Nagar Adhikari why such street or building should not be so altered, demolished or removed or why such land should not be so restored, the Mukhya Nagar Adhikari may cause the work of alteration, demolition, removal or restoration to be carried out and the expenses thereof shall be paid by the said person.

(4) In a case of contravention of the provisions of section 286, the Mukhya Nagar Adhikari, may, instead of taking action as provided in sub-section (3), proceed to make a street or streets or road or roads giving access to the site or sites referred to in section 286 and connecting with an existing public or private street and recover the amount of expenditure incurred in doing so from the owner or owners of the site or sites in such proportion or in such manner as may be prescribed.

Levelling and drainage of private streets and means of access

289. (1) If any private street or any other means of access to a building be not levelled, metalled, flagged or paved, sewered, drained, channelled, lighted, or provided with trees for shade to the satisfaction of the Mukhya Nagar Adhikari, he may, with the sanction of the Executive Committee, by written notice, require the owner or owners of the several premises fronting or adjoining the said street or other means of access or abutting thereon or to which access is obtained through such street or other means of access or which will benefit by works executed under this section to carry out any one or more of the aforesaid requirements in such manner as he shall direct.

(2) If the requirement or requirements is or are not carried out within the time and in the manner specified in the notice,

the Mukhya Nagar Adhikari may, if he thinks fit, carry out the same and the expenses incurred shall be recovered from the owner or owners in default under Chapter XXI.

(3) Where the recovery is to be made from two or more owners in default, it shall be made according to the frontage of their respective premises and in such proportion as may be settled by the Executive Committee.

Powers to decla private streets public streets

290. (1) When any private street has been levelled, metalled, flagged or paved, sewered, drained, channelled and made good to the satisfaction of the Mukhya Nagar Adhikari he may and, upon the request of the owners or of any of the owners of such street, shall, if lamp-posts and other apparatus necessary for lihgting such street have been provided to his satisfaction, declare the same to be a public street by notice in writing put up in any part of such street, and thereupon the same shall become a public street and vest in the Mahapalika as such :

Provided that no such street shall become a public street, if, within one month after such notice has been put up, the owner of such street or the greater part thereof shall by notice in writing to the Mukhya Nagar Adhikari, object thereto.

(2) The Mukhya Nagar Adhikari may, by public notice in writing put up in any part of a street which is not a public street and is not coverred by sub-section (1), give intimation of his intention to declare the same a public street. Within two months after such notice has been so posted up the owner or owners of such street may lodge objections at the office of the Mahapalika against the notice. The Executive Committee shall consider the objections lodged and if it rejects them the Mukhya Nagar Adhikari shall by further public notice posted up in such street or such part, declare the same to be a public street.

Applicability sections 289 a 290 when street is in p public and in p private

291. If a portion only of any street is a public street, the other portion of such street may for all purposes of sections 289 and 290 be deemed to be a private street.

Projections and Obstructions

Prohibition projection up streets, etc.

292. (1) Except as provided in section 293, no person shall erect, set up, add to, or place against or in front of any premises any structure or fixture, which will—

(*a*) overhang, jut or project into, or in any way encroach upon or obstruct in any way the safe or convenient passage of the public along, any street, or

(*b*) jut or project into or encroach upon any drain or open channel in any street, so as in any way to interfere with the use or proper working of such drain or channel or to impede the inspection or cleansing thereof.

(2) The Mukhya Nagar Adhikari may, by written notice, require the owner or occupier of any premises to remove or to take such other order as he may direct with any structure or fixture which has been erected, set up, added to or placed against, or in front of, the said premises in contravention of this section or of any law in force in the City on the day immediately preceding the appointed day.

(3) If the occupier of the said premises removes or alters any structure or fixture in accordance with such notice, he shall be entitled, unless the structure or fixture was erected, set up or placed by himself, to credit in account with the owner of the premises for all reasonable expenses incurred by him in complying with the said notice.

(4) If any such structure or fixture as is described in sub-section (1) has been erected, set up, added to, or placed against or in front of any premises at any time before the first day of April, 1901, the Mukhya Nagar Adhikari may give notice as aforesaid to the owner or occupier of the said premises:

Provided that if in any such case the structure or fixture was lawfully erected, set up, added to or placed, compensation shall be paid by the Mukhya Nagar Adhikari to every person who sustains loss or damage by the removal or alteration thereof.

Projections over streets may be permitted in certain cases

293. (1) The Mukhya Nagar Adhikari may give a written permission, on such terms as he shall in each case think fit, to the owner or occupier of any building abutting on any street—

(*a*) to erect an arcade over such street or any portion thereof, or

(*b*) to put up a verandah, balcony, arch, connecting passage, sun-shade, weather-frame, canopy, awning or other such structure or thing projecting from any storey over or across any street or portion thereof:

Provided that no permission shall be given by the Mukhya Nagar Adhikari for the erection of an arcade in any public street in which the construction of arcade has not been generally sanctioned by the Mahapalika or where the width of the street between kerbs is less than sixty feet.

(2) The provisions of section 292 shall not be deemed to apply to any arcade, verandah, balcony, arch, connecting passage, sun-shade, weather-frame, canopy, awning or other structure or thing erected or put up under and in accordance with the terms of a permission granted under this section.

(3) The Mukhya Nagar Adhikari may at any time, by written notice, require the owner or occupier of any building to remove a verandah, balcony, sun-shade, weather-frame or the like put up in accordance with the provisions of sub-section (1)

and such owner or occupier shall be bound to take action accordingly but shall be entitled to compensation for the loss caused to him by such removal and the cost incurred thereon.

Ground floor doors, etc. no to open outwards on streets

294. (1) No door, gate, bar or ground floor window shall, without a licence from the Mukhya Nagar Adhikari, be hung, or placed so as to open outwards upon any street.

(2) The Mukhya Nagar Adhikari may at any time, by written notice, require the owner of any premises on the ground floor of which any door, gate, bar or window opens outwards upon a street, or upon any land required for the improvement of a street, in such manner as, in the opinion of the Mukhya Nagar Adhikari, to obstruct the safe or convenient passage of the public along such street, to have the said door, gate, bar or window altered so as not to open outwards.

Other prohibitions relating to streets

295. (1) No person shall, except with the permission of the Mukhya Nagar Adhikari under section 293 or 300 erect or set up any wall, fence, rail, post, step, booth or other structure whether fixed or movable and whether of a permanent or a temporary nature, or any fixture in or upon any street or upon or over any open channel, drain, well or tank in any street so as to form an obstruction to, or an encroachment upon, or a projection over, or to occupy, any portion of such street, channel, drain, well or tank :

Provided that nothing in this section shall be deemed to apply to any erection or thing to which clause (*c*) of sub-section (1) of section 302 applies.

(2) No person shall except with the written permission of the Mukhya Nagar Adhikari—

(*a*) place or deposit upon any street, or upon any open channel, drain or well in any street or in any public place any stall, chair, bench, box, ladder, bale or other thing whatever, so as to form an obstruction thereto or encroachment thereon ;

(*b*) project, at a height of less than twelve feet from the surface of the street, any board or chair, beyond the line of the plinth of any building over any street, or over any open channel, drain, well or tank in any street ;

(*c*) attach to, or suspend from, any wall or portion of a building abutting on a street, at a lower height than aforesaid anything whatever:

Provided that nothing in clause (*a*) applies to building materials.

(3) No person shall tether any animal or cause or permit the same to be tethered by any member of his family or household, in any public street and any animal tethered as aforesaid may be removed by the Mukhya Nagar Adhikari, or by any Mahapalika officer or servant, who shall deal therewith as with an animal found straying.

Mukhya Nagar Adhikari may, without notice, remove anything erected, deposited or hawked or exposed for sale in contravention of Act

296. The Mukhya Nagar Adhikari may, without notice, cause to be removed—

(*a*) any wall, fence, rail, post, step, booth or other structure whether fixed or movable and whether of a permanent or a temporary nature or any fixture which shall be erected or set up in or upon or over any street or upon or over any open channel, drain, well or tank contrary to the provisions of this Act after the appointed day ;

(*b*) any stall, chair, bench, box, ladder, bale, board or shelf, or any other thing whatever placed, deposited, projected, attached or suspended in, upon from or to any place in contravention of this Act ;

(*c*) any article whatsoever hawked or exposed for sale in a public place or in any public street in contravention of the provisions of this Act and any vehicle, package, box or any other thing in or on which such article is placed.

Power to require trimming of hedges and trees

297. The Mukhya Nagar Adhikari may, by notice, require the owner or occupier of any land to cut or trim the hedges growing thereon and bordering on a street, or any branches of trees growing thereon which overhang a street and obstruct the same or cause danger.

Power to remove accidental obstructions

298. When a private house, wall or other erection or any thing fixed thereto or a tree shall fall down and obstruct a public drain or encumber a street, the Mukhya Nagar Adhikari may remove such obstruction or encumbrance at the expense of the owner of the same and may recover such expense in the manner provided by Chapter XXI, or may, by notice, require the owner to remove the same within a time to be specified in the notice.

Power to require removal of any structure or fixture erected or set up before the appointed day

299. (1) The Mukhya Nagar Adhikari may, by written notice, require the owner or occupier of any premises contiguous to, or in front of, or in connexion with which any wall, fence, rail, post, step, booth or other structure or fixture which it would be unlawful to erect or set up under this Act, has been erected or set up before the appointed day, to remove the said wall, fence, rail, post, step, stall or other structure or thing.

(2) If the owner or occupier of the premises proves that any such projection, encroachment or obstruction has existed for a period sufficient under the law of limitation to give him a prescriptive title (or where such period is less than thirty years, for a period of thirty years,) or that it was erected with the consent of any Mahapalika authority duly empowered in that behalf,

and that the period, if any, for which the consent is valid has not expired, the Mahapalika shall make reasonable compensation to every person who suffers damage by the removal or alteration of the same.

Mukhya N Adhikari permit booths, to be erected streets on festiv

300. With the concurrence of the District Magistrate or such other officer as the District Magistrate may nominate in this behalf from time to time the Mukhya Nagar Adhikari may grant a written permission for the temporary erection of a booth and any other such structure on any street on occasions of ceremonies and festivals.

Provisions concerning execution of works in or near to streets

Execution works in or to streets

301. Whenever there is any work in execution in or near to any street on behalf of the Mahapalika the Mukhya Nagar Adhikari shall take such steps in regard to safety and convenience as he may be required to take under the rules. Whilst any such work as aforesaid or any work which may lawfully be executed in a street is in progress the Mukhya Nagar Adhikari may in the manner laid down in rules close the street wholly or partly for traffic or for traffic of any such description as he may deem fit.

Streets not to opened or br up and buil materials not deposited the without permiss

302. (1) No person other than the Mukhya Nagar Adhikari or a Mahaplika Officer or servant as such shall, without the written permission of the Mukhya Nagar Adhikari or without other lawful authority—

(*a*) open, break up, displace, take up or make any alteration, in or cause any injury to, the soil or pavement, or any wall, fence, post, chain or other material or thing forming part of any street or in any open space vested in the Mahapalika ;

(*b*) deposit any building materials in any street or open space vested in the Mahapalika ;

(*c*) set up in any street or open space vested in the Mahapalika any scaffold or any temporary erection for the purpose of any work whatever, or any posts, bars, rails, boards or other things by way of enclosure, for the purpose of making mortar or depositing bricks, lime, rubbish or other materials.

(2) Any permission granted under clause (*b*) or (*c*) of sub-section (1) shall be terminable at the discretion of the Mukhya Nagar Adhikari, on his giving not less than twenty-four hours' written notice of the termination thereof to the person to whom such permission was granted.

(3) The Mukhya Nagar Adhikari may, without notice—

(*a*) cause the soil or pavement or any wall, fence, post, bar or other material or thing forming part of the street to be restored to the condition it was in before any opening, breaking up, displacement or alteration or injury made or done without the permission of the Mukhya Nagar Adhikari under sub-section (1) ;

(*b*) except in cases in which permission has been applied for under clause (*b*) of sub-section (1) for the deposit of building materials in any street and no reply has been sent to the applicant within seven days from the date of the application, cause to be removed any building materials, or any scaffold, or any temporary erection, or any posts, bars, rails, boards or other things by way of enclosure, which have been deposited or set up in any street without the permission or authority specified in sub-section (1), or which, having been deposited or set up with such permission or authority, have not been removed within the period specified in the notice issued under sub-section (2).

Precautions for public safety to be taken by person to whom permission is granted under section 302

303. (1) Every person to whom any permission is granted under section 302 shall, at his own expense, cause the place where the soil or pavement has been opened or broken up or where he has deposited building materials, or set up any scaffold, erection or other thing, to be properly fenced and guarded, and, in all cases in which the same is necessary to prevent accidents, shall cause such place to be well lighted during the night.

(2) Every person to whom permission is granted under section 302 to open or break up the soil or pavement of any street, or who, under other lawful authority, opens or breaks up the soil or pavement of any street, shall with all convenient speed complete the work for which the same shall be opened or broken up, and fill in the ground and reinstate and make good the street or pavement so opened or broken up without delay to the satisfaction of the Mukhya Nagar Adhikari:

Provided that if the said person shall fail to reinstate and make good the street or pavement as aforesaid, the Mukhya Nagar Adhikari may restore such street or pavement, and the expenses incurred by the Mukhya Nagar Adhikari in so doing shall be paid by the said person.

(3) The Mukhya Nagar Adhikari may, by written notice, require any person to whom permission is granted under section 302 to open or break up the soil or pavement of any street, or who under any other lawful authority, opens or breaks up the soil or pavement of any street for the purpose of executing any work, to make provisions to his satisfaction for the passage or diversion of traffic for securing access to the premises approached from such street and for any drainage, water supply or means of lighting which may be interrupted by reason of the execution of the said work.

Buildings at corners of streets

304. (1) The Mukhya Nagar Adhikari may, with the approval of the Executive Committee, require by written order the corner of any building which has already been erected or

which is to be newly erected or which is to be reconstructed or repaired and which is situated at the junction of two or more streets to be rounded or splayed off to such height and in such manner as he may determine and may also in such order impose such conditions as he deems necessary as to the construction of a compound wall or fence or hedge or any other structure whatsoever or the planting or retention of any tree on the premises appurtenant to such building.

(2) Compensation shall be paid by the Mukhya Nagar Adhikari for any loss or damage caused by the issue of an order under sub-section (1).

(3) In determining such compensation, allowance shall be made for any benefit accruing to the same premises from the improvement of the streets.

Sky-signs and Advertisements

Regulations sky-signs'

305. (1) No person shall, without the written permission of the Mukhya Nagar Adhikari, erect, fix or retain any sky-sign of the kind prescribed by rules whether existing on the appointed day or not. Such written permission shall be granted, or renewed, for any period not exceeding two years from the date of each such permission or renewal, subject to the condition that such permission shall be deemed to be void if—

(*a*) any addition is made to the sky-sign except for the purpose of making it secure under the direction of the Mukhya Nagar Adhikari ;

(*b*) any change is made in the sky-sign or any part thereof ;

(*c*) the sky-sign or any part thereof fall either through accident, decay or any other cause ;

(*d*) any addition or alteration is made to, or in, the building or structure upon or over which the sky-sign is erected, fixed or retained, involving the disturbance of the sky-sign or any part thereof ;

(*e*) the building or structure upon or over which the sky-sign is erected, fixed or retained becomes unoccupied or be demolished or destroyed.

(2) Where any sky-sign shall be erected, fixed or retained after the appointed day upon or over any land, building or structure, save and except as permitted as hereinbefore provided the owner or person in occupation of such land, building or structure shall be deemed to be the person who has erected, fixed or retained such sky-sign in contravention of the provisions of this section, unless he proves that such contravention was committed by a person not in his employment or under his control, or was committed without his connivance.

(3) If any sky-sign be erected, fixed or retained contrary to, the provisions of this section, or after permission for the erection fixing or retention thereof for any period shall have expired or

become void, the Mukhya Nagar Adhikari may, by written notice, require the owner or occupier of the land, building or structure upon or over which the sky-sign is erected, fixed or retained, to take down and remove such sky-sign.

Regulation and control of advertisements

306. (1) The Mukhya Nagar Adhikari may, by notice in writing, require the owner or the person in occupation of any land, building, wall, hoarding or structure to take down or remove within such period as is specified in the notice, any advertisement upon such land, building, wall, hoarding or structure.

(2) If the advertisement is not taken down or removed within such period, the Mukhya Nagar Adhikari may cause it to be taken down or removed, and the expenses reasonably incurred on taking down or removal thereof shall be paid by such owner or person.

(3) The provisions of this section shall not apply to any advertisement which—

(*a*) is exhibited within the window of any building,

(*b*) relates to the trade or business carried on within the land or building upon which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein, or to any sale, entertainment or meeting to be held upon or in the same;

(*c*) relates to the business of any railway administration;

(*d*) is exhibited within any railway station or upon any wall or other property of a railway administration, except any portion of the surface of such wall or property fronting any street.

Dangerous places and places where some work affecting human safety or convenience is carried on

Hoards to be set up during work on any building adjacent to street

307. (1) No person who proposes to build, take down or rebuild any building or wall, or to alter or repair any part of any building or wall, shall in any case in which the footway in any adjacent street will be thereby obstructed or rendered less convenient, commence doing so without first having caused to be put up a proper and sufficient hoard or fence, with a convenient platform and hand-rail if there be room enough for the same and the Mukhya Nagar Adhikari shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

(2) No hoard or fence shall be so put up without the previous written permission of the Mukhya Nagar Adhikari, and every such hoard or fence, put up with such permission, with such platform and hand-rail as aforesaid, shall be continued standing and maintained in good condition, to the satisfaction of the Mukhya Nagar Adhikari, by the person who carries on the work, during such time as may be necessary for the public safety and convenience and, in all cases in which the same is necessary to prevent accidents, the said person shall cause such hoard or fence to be well lighted during the night.

(3) The Mukhya Nagar Adhikari may, by written notice, require the person aforesaid to remove any hoard or fence so put up.

Mukhya Nag Adhikari to tak proceedings fo repairing or en closing dangerou places or place where some wor affecting safe or convenience i carried on

308. (1) If any place is, in the opinion of the Mukhya Nagar Adhikari, from want of sufficient repair, protection or enclosure or owing to some work being carried on thereupon dangerous to passengers along a street, or to the neighbourhood thereof or if any such work, in the opinion of the Mukhya Nagar Adhikari, affects the safety or convenience of such persons, he may by notice in writing require the owner or occupier thereof to repair, protect or enclose the said place or take such other step as shall appear to the Mukhya Nagar Adhikari necessary in order to prevent danger therefrom or to ensure safety or convenience of such persons.

(2) The Mukhya Nagar Adhikari may, before giving any such notice or before the period of any such notice has expired, take such temporary measures as he thinks fit to prevent danger from the said place or to ensure safety or convenience at such work, and any expense incurred by the Mukhya Nagar Adhikari in taking such temporary measure shall be paid by the owner or occupier of the place to which the said notice refers.

Protective me sures duri demolition wor

309. (1) No person who proposes to take down a building or a part thereof, shall commence doing so without providing in addition to such hoard or fence which he may be required to provide under section 307, screens extending to the full height of such building on all sides thereof so as to prevent pollution of the surrounding air with dust or injury or damage caused by the falling of any debris, bricks, wood and other material.

(2) If any such work is commenced in contravention of sub-section (1) the Mukhya Nagar Adhikari may cause it to be stopped forthwith and any person carrying it out to be removed from the premises by a police officer.

Lighting of Streets

Public streets to be lighted

310. (1) The Mukhya Nagar Adhikari shall—

(*a*) take measures for lighting in a suitable manner the public streets, Mahapalika gardens and open spaces and Mahapalika markets and all buildings vesting in the Mahapalika ;

(*b*) procure, erect and maintain such number of lamps, lamp-posts and other appurtenances as may be necessary for the said purpose; and

(*c*) cause such lamps to be lighted by means of oil, gas, electricity or such other light as the Mahapalika shall from time to time determine.

(2) The Mukhya Nagar Adhikari may place and maintain electric wires for the purpose of lighting such lamps under, over, along or across, and posts, poles, standards, stays, struts, brackets,

and other contrivances for carrying, suspending or supporting lamps or electric wires in or upon any immovable property without being liable to any claim for compensation therefor :

Provided that such wires, posts, poles, standards, stays, struts, brackets and other contrivances shall be so placed as to occasion the least practicable inconvenience or nuisance to any person.

Watering of streets

Measures for watering streets

311. The Mukhya Nagar Adhikari may—

(*a*) take measures for having the public streets watered at such time and seasons and in such manner as he shall think fit;

(*b*) procure and maintain such vehicles, animals and apparatus as he shall think fit for the said purpose.

Miscellaneous

Prohibition of removal, etc. of lamps or any Mahapali a property on streets

312. (1) No person shall, without lawful authority, take away, or wilfully break, throw down or damage—

(*a*) any lamp, lamp-post or lamps-iron set up in any public street or in any Mahapalika garden, open space or market or building vesting in the Mahapalika ;

(*b*) any electric wire for lighting any such lamps;

(*c*) any post, pole, standard, stay, strut, bracket or other contrivance for carrying, suspending or supporting any such electric wire or lamp;

(*d*) any property of the Mahapalika on any street;

and no person shall wilfully extinguish the light or damage any appurtenance of any such lamp.

(2) If any person shall, through negligence or accident or otherwise break any lamp set up in any public street or Mahpalika market, garden or public place or building vesting in the Mahapalika or shall break or damage any property of the Mahapalika on any street, he shall pay the expenses of repairing the damage so done by him.

State Government may extend provisions of Chapter outside limits of city

313. The State Government may, by order which shall be published in the official *Gazette*, apply to any area to be specified in the order but not lying beyond a distance of two miles from the limits of the City, the provisions of any section in this Chapter and of rules made thereunder, subject to such adaptations whether by way of modification, addition or omission, as it may deem to be necessary and expedient and thereupon the provisions and rules so applied shall have effect in that area as if it were within the City.

Power to make rules

314. (1) The State Government may make rules for the purposes of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing powers such rules may provide for—

(*a*) manner in which the Mahapalika shall sanction the closing of any public street and the disposal of the site of such street under section 273;

(*b*) manner in which the sanction of the Executive Committee to prescribe a fresh street line in place of any existing line shall be given under section 279 ;

(*c*) manner in which a person shall give notice of his intention to sell, let, etc., land for building purposes or to lay out a private street under section 287 and the procedure to be adopted by the Mukhya Nagar Adhikari in dealing with such notice including, asking for more information or authenticated plan, etc.;

(*d*) steps to be taken under section 301 by the Mukhya Nagar Adhikari for safety and convenience of the public when any work in or near to streets is in execution.

CHAPTER XIII

BUILDING REGULATIONS

Notice Regarding Erection etc. of Buildings

Defnition

315. In this Chapter the expression "to erect building" shall include—

(*a*) subject as may be prescribed by rules the re-erection of a substantial portion of any existing building,

(*b*) the conversion into a dwelling house of any building or part of a building not originally intended or already used for human habitation,

(*c*) the conversion by any structural alteration of a single tenement or two or more tenements in a building into a greater or lesser number of dwelling houses so as to affect its drainage or sanitary arrangement or its stability,

(*d*) the conversion by any structural alteration of any building into a place of religious worship or into a sacred building not originally meant or constructed for such purpose,

(*e*) the covering or roofing of an open space between walls or buildings as regards the structure which is formed by roofing or covering such space,

(*f*) the conversion into a stall, shop, warehouse or godown of a building not originally constructed for any such use,

(*g*) the construction in a wall adjoining any street or land not vested inthe owner of the wall, a door opening on such street or land, and

(*h*) any other operation declared by a bye-law made in this behalf to be deemed to be erection of a building.

Notice of erection of building

316. Every person intending to erect a building shall give to the Mukhya Nagar Adhikari a notice in writing of his intention to do so in such form and manner and containing such particulars as may be prescribed by bye-laws.

Notice of repairs, alteration etc. in Building

317. Every person intending—

(*a*) to make any addition to a building,

(*b*) to make any alteration or repairs to a building, not being a frame-building, involving the removal or re-erection of any external or party-wall thereof or of any wall which supports the roof thereof, to an extent exceeding one-half of such wall above the plinth level, such half to be measured in superficial feet.

(*c*) to make any alteration or repairs to a frame-building, involving the removal or re-erection of more than one-half of the posts or beams in any such wall thereof as aforesaid, or involving the removal or re-erection of any such wall thereof as aforesaid, to an extent exceeding one-half of such wall above plinth level, such half to be measured in superficial feet,

(*d*) to make any alteration in a building involving—

(i) the sub-division of any room in such building so as to convert the same into two or more parate rooms,

(ii) the conversion of any passage or space in such building into a room or rooms,

(iii) to repair, remove, construct, re-construct or add to any portion of a building abutting on a street which stands within the regular line of such street,

(*e*) to carry out any work in a building involving—

(i) the construction or re-construction of a roof,

(ii) the conversion of a roof into a terrace,

(iii) the conversion of a terrace into a roof, or

(iv) the construction of a lift shaft,

(*f*) to carry out any repairs to a building involving the construction of a floor of a room (excluding the ground floor),

(*g*) to permanently close any door or window in an external wall, or

(*h*) to remove or re-construct the principal staircase or to alter its position,

shall give notice in writing to the Mukhya Nagar Adhikari in such form and containing such information as may be required to be furnished under the bye-laws framed therefor and accompanied by such documents and plans as may be prescribed.

Rejection of plan, etc. if not drawn in the prescribed manner or where the applicant fails to supply the particulars called for by the Mukhya Nagar Adhikari

318. Any plan, section, description, structural drawings or structural calculations and any notice not fulfilling the conditions prescribed therefor or in respect of which the further particulars or details are not supplied to the Mukhya Nagar Adhikari within such period as may be fixed by him, shall not be treated as sufficient and valid for the purposes of this Act.

Period within which Mukhya Nagar Adhikari is to grant or refuse to grant permission to execute work

319. Within thirty days after the receipt of any application made under section 316 or section 317 or of any information or of documents or further information or documents required under rules or bye-laws the Mukhya Nagar Adhikari shall by written order either grant such permission or refuse on one or more of the grounds mentioned in section 321 or section 322 to grant it.

Reference to Executive Committee if Mukhya Nagar Adhikari delays grant or refusal of approval or permission

320. (1) If, within the period laid down in section 318 or section 319, as the case may be, the Mukhya Nagar Adhikar has neither given nor refused his permission to erect building or to execute work referred to in section 317 as may have been applied for, the Executive Committee shall be bound, on the written request of the applicant, to determine by written order whether such approval or permission should be given or not.

(2) If the Executive Committee does not, within one month from the receipt of such written request, determine whether such permission should be given or not, such permission shall be deemed to have been given and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules or bye-laws made under this Act.

Grounds on which approval of site for or permission to construct or reconstruct building may be refused

321. (1) The only grounds on which permission to erect a building or to execute any work referred to in section 317 may be refused, are the following, namely—

(*a*) that the work or the use of the site for the work or any of the particulars comprised in the site-plan, ground-plan, elevations, sections, or specifications would contravene some specified provision of any law or some specified order, rule, declaration or bye-law made under any law ;

(*b*) that the application for such permission does not contain the particulars or is not prepared in the manner required under rules or bye-laws or is not signed as required under rules or bye-laws ;

(*c*) that any information or documents required by the Mukhya Nagar Adhikari under the rules or bye-laws has or have not been duly furnished ;

(*d*) that the proposed building would be an encroachment upon Government or Mahapalika land ;

(*e*) that the site of such building does not abut on a street or a projected street, and there is no access to such building from any such street by a passage or pathway appertaining to such site and not less than 12 feet wide at any part ;

(*f*) that the site of the proposed building is of the nature specified in section 323 ;

(*g*) that the site for the work forms a part of the areas, layout plan of which has not been sanctioned as provided in section 287 ;

(*h*) that the use of the proposed building or plan is not in conformity with the Master Plan of the City framed under section 383.

(2) Whenever the Mukhya Nagar Adhikari or the Executive Committee refuses to grant permission to erect a building or to execute any work referred to in section 317 the reasons for such refusal shall be specifically stated in the order.

Special power for suspending permission to construct buildings

322. Notwithstanding anything contained in section 321 if any street shown in the site-plan is an intended private street the Mukhya Nagar Adhikari may at his discretion refuse to grant permission to construct a building, until the street is commenced or completed.

Restriction of the power to sanction construction of a place of entertainment in certain cases

323. Notwithstanding anything contained in this Act or any rule or bye-law made thereunder, the construction of, or any addition to, any building of public entertainment or any addition thereto, shall not, except with the previous approval of the State Government, be sanctioned by the Mukhya Nagar Adhikari or the Executive Committee, if the site of, or proposed for such building is—

(*a*) within a radius of one furlong from—

(i) any residential institution attached to a recognized educational institution such as a college, high school or girls school ; or

(ii) a public hospital with a large indoor patient ward; or

(iii) an orphanage containing one hundred or more inmates; or

(*b*) in any thickly populated residential area which is either exclusively residential or reserved or used generally for residential as distinguished from business purposes ; or

(*c*) in any area reserved for residential purposes by any housing or planning scheme or otherwise under any enactment :

Provided that no permission to construct any building intended to be used for cinematograph exhibition shall be given unless the Executive Committee is satisfied that sanction to the plans and specifications have been obtained in accordance with the rules framed under the Cinematograph Act, 1918.

Commencement of Work

Erection of building or execution of work how to be carried out

324. Every person intending to erect a new building or to execute any work referred to in section 317 shall erect the building or execute the work in such manner, under such supervision, through such qualified agency and subject to such conditions and restrictions as may be provided therefor by the bye-laws.

Inspection by Mukhya Nagar Adhikari of buildings in course of erection, alteration, etc

325. The Mukhya Nagar Adhikari or any Officer or servant of the Mahapalika authorized in this behalf may, at any time during the erection of the building or the execution of any work referred to in section 317, or within three months of the completion of such building or work, make an inspection thereof and if he has reasonable ground to suspect that in the erection of any such building or in the execution of any such work anything has been done contrary to any provisions of this Act or of any rule or bye-law framed thereunder, he may after 15 days' prior notice in

writing to the person erecting such building or executing such work, cut into or lay open or pull down such portion, if any, of the building as prevents the discovery of facts sufficient to confirm or dispel the suspicion :

Provided that the person whose building or construction has been cut into or laid open shall be paid compensation by the Mukhya Nagar Adhikari for the damage caused to his building or work because of the aforesaid Act, where it is found that in the erection of the building or the execution of such work nothing was done by him contrary to the provisions of this Act.

Enforcement of provisions concerning buildings and works

326. Where the Mukhya Nagar Adhikari at any time during the erection of the building or the execution of such work as aforesaid or at any time within three months after the completion thereof, whether as a result of his inspection or otherwise comes to know of any matter in respect of which the erection of such building or the execution of such work is in contravention of any provision of this Act or of any rule or bye-law framed thereunder, he may require the owner erecting or executing or who has erected or executed the said building or work, to cause, any thing done contrary to any such provision, rule or bye-law, to be amended or to do anything which by any such provision, rule or bye-law, may be required to be done but which has been omitted to be done.

Proceedings to be taken in respect of building or work commenced contrary to Act, rules or bye-laws

327. (1) If the erection of any building or the execution of any such work as is referred to in section 317 is commenced or carried out contrary to the provisions of the rules or bye-laws, the Mukhya Nagar Adhikari, unless he deems it necessary to take proceedings in respect of such building or work under section 328 shall—

(*a*) by written notice, require the person who is erecting such building or executing such work or has erected such building or executed such work on or before such day as shall be specified in such notice, by a statement in writing subscribed by him or by an agent duly authorized by him in that behalf and addressed to the Mukhya Nagar Adhikari, to show sufficient cause, why such building or work shall not be removed, altered or pulled down, or

(*b*) require the said person on such day and at such time and place as shall be specified in such notice to attend personally or by an agent duly authorized by him in that behalf, and show sufficient cause why such building or work shall not be removed, altered or pulled down.

(2) If such person shall fail to show sufficient cause, to the satisfaction of the Mukhya Nagar Adhikari, why such building or work shall not be removed, altered or pull down, the Mukhya Nagar Adhikari may remove, alter or pull down, the building or work and the expenses thereof shall be paid by the said person.

Power of Mukhya Nagar Adhikari to cancel permission on ground of material misrepresentation by applicant

328. If at any time after permission to proceed with any building or work has been given under this Act, the Mukhya Nagar Adhikari is satisfied that such permission was granted in consequence of any material misrepresentation or fraudulent statement contained in the notice given or information furnished under section 316 or 317, or further information, if any, furnished, he may cancel such permission and any work done thereunder shall be deemed to have been done without his permission.

Completion certificates; permission to occupy or use

329. (1) Every person shall, within one month after the completion of the erection of a building or the execution of any such work as is referred to in section 317, deliver or send or cause to be delivered or sent to the Mukhya Nagar Adhikari at his office, notice in writing of such completion, accompanied by a certificate in the form prescribed in the bye-laws signed and subscribed in the manner so prescribed, and shall give to the Mukhya Nagar Adhikari all necessary facilities for the inspection of such building or of such work and shall apply for permission to occupy the building.

(2) No person shall occupy or permit to be occupied any such building, or use or permit to be used the building or part thereof affected by any work, until—

(*a*) permission has been received from the Mukhya Nagar Adhikari in this behalf, or

(*b*) the Mukhya Nagar Adhikari has failed for twenty-one days after receipt of the notice of completion to intimate his refusal of the said permission:

Provided that an application under sub-section (1) may be made and permission of the Mukhya Nagar Adhikari to occupy given in respect of part of a building also where the Mukhya Nagar Adhikari is satisfied that part has become habitable.

Dangerous Structures

Periodic inspection of buildings

330. (1) It shall be incumbent on the owner of every building to maintain every part thereof and everything appurtenant thereto in such repair as to prevent its becoming dangerous.

(2) The Mukhya Nagar Adhikari may by written notice require the owner of any building to get the building inspected at such intervals and in such manner as may be prescribed in the bye-laws.

(3) The owner shall within two months of the inspection under sub-section (2) undertake such repairs as the inspection shall show to be necessary for the purpose of securing the stability of structure within the meaning of section 331, after complying with all the provisions of this Act and the rules and bye-laws in regard to such repairs and shall, on completion of such repairs,

submit to the Mukhya Nagar Adhikari a certificate signed by the person who made the inspection, of his having carried out the repairs satisfactorily.

(4) A report of every inspection made under sub-section (2) shall forthwith be submitted to the Mukhya Nagar Adhikari by the person who carried it out and the Mukhya Nagar Adhikari may take such action in respect of such building as he deems fit under this section or under any other provision of this Act if the owner fails to comply with the requirements of sub-section (3).

(5) The expenses incurred by the Mukhya Nagar Adhikari under sub-section (4) shall be paid by the owner.

Removal of structures etc. which are in ruins or likely to fall

331. (1) If it shall at any time appear to the Mukhya Nagar Adhikari that any structure (including under this expression any building wall, parapet, pavement, floor steps, railing, door or window frames or shutters or roof, or other structure and anything affixed to or projecting from or resting on, any building, wall, parapet or other structure) is in a ruinous condition or likely to fall, or in any way dangerous to any person occupying, resorting to or passing by such structure or any other structure or place in the neighbourhood thereof, the Mukhya Nagar Adhikari may, by written notice, require the owner or occupier of such structure to pull down, secure, remove or repair, such structure or thing or do one or more of such things and to prevent all cause of danger therefrom.

(2) The Mukhya Nagar Adhikari may also, if he thinks fit, require the said owner or occupier by the said notice, either forthwith or before proceeding to pull down, secure, remove or repair the said structure or thing, to set up a proper and sufficient hoard or fence for the protection of passers-by and other persons, with a convenient platform and hand-rail, if there be room enough for the same and the Mukhya Nagar Adhikari shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

(3) If it appears to the Mukhya Nagar Adhikari that the danger from a structure which is ruinous or about to fall is imminent he may, before giving notice as aforesaid or before the period of notice expires, fence off, take down, secure or repair the said structure or take such steps or cause such work to be executed as may be required to arrest the danger.

(4) Any expenses incurred by the Mukhya Nagar Adhikari under sub-section (3) shall be paid by the owner or occupier of the structure.

(5) (*a*) Where the Mukhya Nagar Adhikari is of opinion whether on receipt of an application or otherwise that the only or the most convenient means by which the owner or occupier of a structure such as is referred to in sub-section (1) can pull

down, secure, remove or repair such structure, is by entering any of the adjoining premises belonging to some other person the Mukhya Nagar Adhikari after giving such person a reasonable opportunity of stating any objection may, if no such objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, authorize the said owner or occupier to enter such adjoining premises.

(*b*) Every such order bearing the signature of the Mukhya Nagar Adhikari shall be a sufficient authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving to the owner of the premises reasonable written notice of his intention so to do, to enter upon the said premises with assistants and workmen, at any time between sunrise and sunset, and to execute the necessary work.

(*c*) In executing any work under this section as little damage as can be, shall be done to the adjoining owner's property, and the owner or occupier of premises for the benefit of which the work is done, shall—

(i) cause the work to be executed with the least practicable delay ;

(ii) pay compensation to any person who sustains damage by the execution of the said work.

Dangerous opening in buildings

332. If it shall at any time appear to the Mukhya Nagar Adhikari that any opening in any part of a building is so situated as to constitute a danger to human life, he may, by written notice, require that such opening shall be enclosed or protected by bars, grills or such other device to his satisfaction.

Works unlawfully carried on

Power of Mukhya Nagar Adhikari to direct removal of person directing unlawful work

333. (1) If the Mukhya Nagar Adhikari is satisfied that the erection of any building or the execution of any such work as is referred to in section 317 has been unlawfully commenced or is being unlawfully carried on upon any premises he may, by written notice, require the person directing or carrying on such erection or execution to stop the same forthwith.

(2) If such erection or execution is not stopped forthwith, the Mukhya Nagar Adhikari may direct that any person directing or carrying on such erection or execution shall be removed from such premises by any police officer and may cause such steps to be taken as he may consider necessary to prevent the re-entry of such person on the premises without his permission.

(3) The cost of any measures taken under sub-section (2) shall be paid by the said person.

Power to vacate Premises

Power of the Mukhya Nagar Adhikari to vacate any building in certain circumstances

334. (1) Notwithstanding the provisions of any other law to the contrary, the Mukhya Nagar Adhikari may, by notice in writing specifying the grounds therefor, order any building or any portion thereof to be vacated forthwith or within such time as may be specified in the notice—

(*a*) if such building or portion thereof has been unlawfully occupied in contravention of section 329 ;

(*b*) if a notice has been issued in respect of such building or part thereof requiring the alteration or reconstruction of any existing staircase, lobby, passage or landing, and the works specified in such notice have not been commenced or completed ;

(*c*) if the building or part thereof is in a ruinous or dangerous condition within the meaning of section 331.

(2) The affixing of such written notice on any part of such premises shall be deemed a sufficient intimation to the occupiers of such building or portion thereof.

(3) On the issue of a notice under sub-section (1) every person in occupation of the building or portion thereof to which the notice relates shall vacate such building or portion as directed in the notice and no person shall so long as the notice is not withdrawn enter the building or portion thereof except for the purpose of carrying out any work which he may lawfully carry out.

(4) The Mukhya Nagar Adhikari may direct that any person who acts in contravention of sub-section (3) shall be removed from such building or part thereof by any police officer.

(5) The Mukhya Nagar Adhikari shall, on the application of any person who has vacated any premises in pursuance of a notice under sub-section (1), reinstate such person in the premises on the withdrawal of such notice, unless it is in his opinion impracticable to restore substantially the same terms of occupation by reason of any structural alteration or demolition.

(6) The Mukhya Nagar Adhikari may direct the removal from the said premises by any police officer of any person who obstructs him in any action taken under sub-section (5) and may also use such force as is reasonably necessary to effect entry in the said premises.

Regulation of certain classes of buildings in particular streets or localities

Power to regulate future construction of certain classes of buildings in particular streets or localities

335. (1) The Mukhya Nagar Adhikari may give public notice of his intention to declare subject to any valid objection that may be preferred within a period of three months—

(*a*) that in any streets or portions of streets specified in such notice the elevation and construction of the frontage of all buildings or any classes of buildings thereafter erected or re-erected shall in respect of their architectural features be such as the Mahapalika may consider suitable to the locality ;

(*b*) that in any localities specified in the notice there shall be allowed the construction of only detached or semi-detached buildings or both and that the land appurtenant to each such building shall be of an area not less than that specified in such notice;

(*c*) that the minimum size of building plots in particular localities shall be of a specified area ;

(*d*) that in any localities specified in the notice the construction of more than a specified number of buildings on each acre of land shall not be allowed; or

(*e*) that in any streets, portions of streets or localities specified in such notice the construction of shops, warehouses, factories, huts or buildings designed for particular uses shall not be allowed without the special permission of the Mukhya Nagar Adhikari granted in accordance with general regulations framed by the Executive Committee in this behalf and subject to the terms of such permission only.

(2) The Executive Committee shall consider all objections received within a period of three months from the publication of such notice, and shall then submit the notice with a statement of objections received and of its opinion thereon to the Mahapalika.

(3) No objection received after the said period of three months shall be considered.

(4) Within a period of two months after the receipt of the same the Mahapalika shall submit all the documents referred to in sub-section (2) with a statement of its opinion thereon to the State Government.

(5) The State Government may pass such orders with respect to such declaration as it may think fit :

Provided that such declaration shall not thereby be made applicable to any street, portion of a street or locality not specified in the notice issued under sub-section (1).

(6) The declaration as confirmed or modified by the State Government shall be published in the official *Gazette* and shall take effect from the date of such publication.

(7) No person shall erect or re-erect any building in contravention of any such declaration.

Power of Mukhya Nagar Adhikari in cases of contravention of provisions of section 335

336. The Mukhya Nagar Adhikari shall have power to take such action against the persons contravening the provisions of section 335 as may be prescribed by bye-laws or rules.

Abandoned or unoccupied premises

337. If it appears to the Mukhya Nagar Adhikari that any building or structure has been abandoned or is unoccupied and has become a resort of disorderly persons or is by reason of its condition seriously detrimental to the amenities of the neighbourhood, the Mukhya Nagar Adhikari may give a

written notice to the owner of such building or structure if he is known and found to be a resident within the limits of the Mahapalika, or to any person who is known or believed to claim to be the owner, if such person is resident within the limits of the Mahapalika, and shall also affix a copy of the notice on some conspicuous part of the building or structure requiring all persons having any right or interest therein to take such order with the said building or structure as may, in the opinion of the Mukhya Nagar Adhikari, be necessary to prevent the same from being resorted to as aforesaid or from being seriously detrimental to the amenities in the neighbourhood.

Power to prohibit re-erection of building on inaccessible sites

338. (1) If any building so situated as to be inaccessible to a fire-engine or as to cause obstruction to a fire-engine from reaching other building is demolished or destroyed by fire or otherwise, the Mukhya Nagar Adhikari may by a notice in writing addressed to the owner of the building demolished or destroyed as aforesaid direct that no building shall be erected which would be inaccessible to a fire-engine or which would cause obstruction to a fire-engine from reaching other buildings.

(2) No person shall erect or re-erect any building in contravention of a notice, *vide* sub-section (1).

Removal of building materials from any premises in certain cases

339. If it appears to the Mukhya Nagar Adhikari that any stones, rafters, building materials or debris of building materials are stored or collected in or upon any premises in such quantity or bulk or in such a way as to constitute a harbourage or breeding place for rats or other vermin or is otherwise a source of danger or nuisance to the occupiers of the said premises or to persons residing in the neighbourhood thereof the Mukhya Nagar Adhikari may by a written notice require the owner of such premises, or the owner of the materials or debris so stored or collected therein, within a reasonable time to be specified in the notice, to remove or dispose of the same or to take such order with the same as may, in the opinion of the Mukhya Nagar Adhikari, be necessary or expedient to abate the nuisance or prevent a recurrence thereof.

Power of Mukhya Nagar Adhikari to call for statement of accommodation

340. (1) The owner of a building shall within a period of seven days of the receipt of a written notice from the Mukhya Nagar Adhikari, supply such information with respect to such building or its occupants as the Mahapalika may prescribe.

(2) The occupier of a building occupied as a separate tenement shall on like notice and within the like period supply such information as may be prescribed with respect to such building as aforesaid which is in his occupation.

State Government may extend provisions of Chapter outside limits of City

341. The State Government may, by order which shall be published in the official *Gazette*, apply to any area to be specified in the order but not lying beyond a distance of two miles from the limits of the City, the provisions of any section in this Chapter and of rules made thereunder, subject to such adaptations whether by way of modification, addition or omission as it may deem to be necessary and expedient and thereupon the provisions and rules so applied shall have effect in that area as if it were within the City.

Power to make rules,

342. (1) The State Government may make rules to carry out the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the manner of giving permission to the erection of buildings;

(*b*) the manner of effecting repairs in and pulling down, securing and removing of dangerous buildings and recovery of expenses of such repairs, pulling down, securing or removal ;

(*c*) the restrictions under which alterations may be made in the use of buildings;

(*d*) the inspection of newly constructed buildings;

(*e*) the conditions on which loans may be granted out of the Mahapalika Fund for building and the form of application for such loans.

CHAPTER XIV

IMPROVEMENT SCHEMES

Types of Improvement Schemes

343. For the purposes of effecting improvement in the City, an improvement scheme may be of one of the following types, or may combine any two or more of such types or special features thereof, that is to say—

(*a*) a Samanya Vikas Yojana (general improvement scheme);
(*b*) a Basti Sudhar Yojana (slum clearance and re-building scheme);
(*c*) a Grih Punarnirman Yojana (re-housing scheme);
(*d*) a Sarak Yojana (street scheme) ;
(*e*) a Bhavi Sarak Yojana (deferred street scheme);
(*f*) a Grih Sthan Yojana (housing accommodation scheme), and
(*g*) a Nagar Prasar Yojana (City expansion scheme).

Samanya Vikas Yojana. General Improvement Scheme)

344. Whenever it appears to the Development Committee—

(*a*) that any buildings in any area which are used or are intended or likely to be used as dwelling places are unfit for human habitation ; or

(*b*) that danger to the health of the inhabitants of buildings in any area or in any neighbouring buildings is caused by—

(i) the narrowness, closeness or bad arrangement and condition of streets or buildings or groups of buildings in such area, or

(ii) the want of light, air, ventilation or proper conveniences in such area, or

(iii) any other sanitary defects in such area,

the Development Committee may pass a resolution to the effect that such an area is an insanitary area, and that a Samanya Vikas Yojana (general improvement scheme) be framed in respect of such area.

Basti Sudhar Yojana. Slum Clearance and Rebuilding Scheme)

345. (1) When it appears to the Development Committee that any area is an insanitary area within the meaning of the preceding section and that, regard being had to the comparative value of the buildings in such area and of the sites on which they are erected, the most satisfactory method of dealing with the area or any part thereof is clearance of the insanitary area of existing buildings and erecting new buildings, it may by resolution direct that a Basti Sudhar Yojana (slum clearance and re-building scheme) in accordance with the provisions of this section be framed.

(2) A Basti Sudhar Yojana (slum clearance and re-building scheme) may provide for—

(*a*) the reservation of streets, back lanes and open spaces and the enlargement of existing streets, back lanes and open spaces to such an extent as may be necessary for the purposes of the scheme;

(*b*) the re-laying out of the sites of the area upon such streets, back lanes, or open spaces so reserved or enlarged;

(*c*) the payment of compensation in respect of any such reservation or enlargement, and the construction of the streets, back lanes and open spaces so reserved or enlarged;

(*d*) the demolition of the existing buildings and their appurtenances by the owners, or by the Mahapalika in default of the owners, and the erection of buildings in accordance with the scheme by the said owners or by the Mahapalika in default of the owners upon the sites as defined under the scheme;

(*e*) the advance to the owners, upon such terms and conditions as to interest and sinking fund and otherwise as may be prescribed under the scheme, of such sums as may be necessary to assist them to erect new buildings in accordance with the scheme;

(*f*) the acquisition by the Mahapalika of any site or building comprised in the area included in the scheme:

Provided that the Mahapalika may exclude any building from demolition if it is satisfied that the particular building is not unfit for human habitation or dangerous or injurious to health or is capable of being so improved as to render it healthy and fit for human habitation and does not obstruct the clearance of the area or its re-development.

Grih Punar nirma
Yojara (Re-housi
Scheme)

346. The Development Committee when it resolves that an Improvement Scheme which is likely to displace persons be framed, shall also by resolution, require the Mukhya Nagar Adhikari to frame a scheme (herein called housing scheme) for construction, maintenance and re-management of such and so many dwellings and shops as it may consider ought to be provided for persons who—

(*a*) are displaced by the execution of any improvement scheme sanctioned under this Act, or

(*b*) are likely to be displaced by the execution of any improvement scheme which it is intended to frame, or to submit to the State Government for sanction under this Act:

Provided that the State Government may for reasons to be recorded in writing exempt a Development Committee from the liability under this section.

Sarak Yojana
(Street Scheme

347.(1) Whenever the Development Committee is of opinion that, for the purpose of—

(*a*) providing buildings sites, or

(*b*) remedying defective ventilation, or

(*c*) creating new or improving existing means of communication and facilities for traffic, or

(*d*) affording better facilities for conservancy,

it is expedient to lay out new streets or alter existing streets (including bridges, causeways and culverts) and that this object cannot be achieved by taking action under Chaper XII, the Development Committee may by resolution require the Mukhya Nagar Adhikari to fram a scheme to be called a "Sarak Yojana" (Street Scheme).

(2) A Sarak Yojana (street scheme) may within the limits of the area comprised in the scheme provide for—

(*a*) the acquisition of any land which will, in the opinion of the Development Committee, be necessary for its execution ;

(*b*) the re-laying out of all or any of the lands so acquired, including the construction of buildings by the Mahapalika or by any other person and the laying out, construction and alteration of streets;

(*c*) the drainage, water-supply and lighting of streets so constructed or altered;

(*d*) the raising, lowering, or reclamation of any land vested in, or to be acquired by, the Mahapalika for the purposes of the scheme;

(*e*) the formation of open spaces for the better ventilation of the area comprised in the scheme;

(*f*) the acquisition of any land adjoining any street or open space included in the scheme.

Bhavi Sarak Yojana (Deferred Street Scheme)

348. (1) (*a*) Whenever the Development Committee is of opinion that it is expedient for any purpose mentioned in section 347 to provide for the ultimate widening of any street by altering the existing alignment of such street to improve alignments to be prescribed by the Mukhya Nagar Adhikari but that it is not expedient immediately to acquire all or any of the properties lying within the proposed improved alignments, the Development Committee, if satisfied of the sufficiency of the resources of the Mahapalika by a resolution require the Mukhya Nagar Adhikari to make a scheme to be called a Bhavi Sarak Yojana (Deferred Street Scheme) prescribing an alignment on each side of such street.

(*b*) No person shall erect, re-erect, add to, or alter any building or wall so as to make the same project beyond the prescribed alignment of the street except with the written permission of the Mahapalika.

(2) The Bhavi Sarak Yojana (deferred street scheme) shall provide for—

(*a*) the acquisition of the whole or any part of any property lying within the prescribed street alignment;

(*b*) the re-laying out of all or any such property including the construction and re-construction of buildings by the Mahapalika or by any other person, and the formation and alteration of the street;

(*c*) the drainage and lighting of the street so formed and altered.

(3) The owner of any property included in a Bhavi Sarak Yojana (Deferred Street Scheme) may, at any time after the scheme has been sanctioned by the State Government, give the Mahapalika notice requiring it to acquire such property before the expiration of six months from the date of such notice. The Mahapalika shall thereupon issue notice of its intention to acquire such property and the property shall be acquired accordingly.

(4) Before proceeding to acquire any property within the limit to the scheme other than the property regarding which it has received a notice under sub-section (3), the Mahapalika shall give six months' notice to the owner of its intention to acquire the property.

Grih Sthan Yojana (Housing Accommodation Scheme)

349. Whenever the Development Committee is of opinion that it is expedient and for the public advantage to provide house accommodation for any class of the inhabitants of the City, it may require the Mukhya Nagar Adhikari to frame a scheme (to be called a "Grih Sthan Yojana" (Housing Accommodation Scheme) for the purpose aforesaid.

Nagar Prasar Yojana (City Expansion Scheme)

350. (1) Whenever the Development Committee is of opinion that it is expedient and for the public advantage to control and provide for the future expansion of the City, it may require the Mukhya Nagar Adhikari to frame a scheme (to be called "Nagar Prasar Yojana" the (City Expansion Scheme).

(2) Such scheme shall show the method in which it is proposed to lay-out the area to be developed and the purposes for which particular areas are to be utilized.

(3) For the purposes of a Nagar Prasar Yojana (City expansion scheme)the provisions of clause (*a*) of sub-section (2) of section 360 shall not be applicable but the Mahapalika shall be required to supply such details as the State Government may consider necessary.

(4) When any such scheme has been notified under section 363, if any person desires to erect, re-erect, add to or alter any building or wall within the area comprised in the said scheme, he shall apply to the Mahapalika for permission to do so.

(5) If the Mahapalika refuses to grant permission to any person to erect, re-erect, add to or alter any building or wall on his land in the area aforesaid , and if it does not proceed to acquire such land within one year from the date of such refusal, it shall pay reasonable compensation to such person for any damage sustained by him in consequence of such refusal.

Framing of Scheme

351. (1) Whenever an improvement scheme is required to be framed under any of the preceding sections, it shall be the duty of the Mukhya Nagar Adhikari to prepare a draft scheme and to lay it for consideration before the Development Committee.

(2) With the previous approval of the Development Committee, the Mukhya Nagar Adhikari may, for the purpose of making an improvement scheme, cause surveys to be made in areas either inside or outside the limits of the area or areas comprised in the scheme to be made.

Combination of Improvement Schemes

352. Any number of areas in respect of which improvement schemes have been or are proposed to be framed, may at any time be included in one combined scheme.

Matters to be provided for by Improvement Scheme

353. (1) An improvement scheme may provide for all or any of the following matters as the nature of the scheme may demand:

(*a*) The acquisition by purchase, exchange, or otherwise of any property necessary for or affected by the execution of the scheme.

(*b*) The re-laying out of any land comprised in the scheme.

(*c*) The re-distribution of sites belonging to owners of property comprised in the scheme.

(*d*) The closure or demolition of dwellings or portions of dwellings unfit for human habitation.

(*e*) The demolition of obstructive buildings or portions of buildings.

(*f*) The construction and re-construction of buildings.

(*g*) The sale, letting, or exchange of any property comprised in the scheme.

(*h*) The construction and alteration of streets and back lanes and the provision of side-walks for pedestrians.

(*i*) The drainage, water-supply, and lighting of streets so constructed or altered.

(*j*) The provision of open spaces for the benefit of any area comprised in the scheme or any adjoining area, and for the enlargement of existing open space and approaches.

(*k*) The sanitary arrangements required for the area comprised in the scheme, including the conservation and prevention of injury or contamination to rivers or other sources and means of water-supply.

(*l*) The provision of accommodation for any class of the inhabitants.

(*m*) The advance of money for the purposes of the scheme.

(*n*) The provision of facilities for communication.

(*o*) The reclamation or reservation of land for market, gardens, afforestation, the provision of fuel and grass-supply and other needs of the population.

(*p*) The provision for preventing overcrowding in the area covered by the Scheme.

(*q*) Any other matter for which, in the opinion of the State Government, it is expedient to make provisior with a view to the improvement of any area in question or the general efficiency of the scheme

(2) The Mahapalika may from time to time lay down by resolution what shall constitute overcrowding for the purposes of this section and may in such resolution specify the minimum space to be allowed for each person according to age in premises used exclusively as a dwelling and in premises used as a dwelling as well as for some other purpose.

Inclusion of areas outside City in certain Improvement Schemes

354 An Improvement Scheme mentioned in clause (*a*) or (*b*) or (*g*) of section 343 may include within it in whole or in part any such area lying within two miles outside the limits of the City as the State Government may by notification in the official *Gazette* specify and such area shall, for the purposes of this Chapter be deemed to be area lying within the City.

Matters to be considered when framing improvement schemes

355. When framing an improvement scheme in respect of any area, regard shall be had to—

(*a*) the nature and the conditions of neighbouring areas and of the City as a whole ;

(*b*) the several directions in which the expansion of the City appears likely to take place, and

(*c*) the likelihood of improvement schemes being required for other parts of the City.

Consideration of Development Committee

356. (1) The Development Committee shall consider the scheme placed before it by the Mukhya Nagar Adhikari and accept it with or without modifications or require the Mukhya Nagar Adhikari to make alterations in it and to re-submit it for consideration.

(2) The Development Committee shall record in writing its acceptance of the scheme and direct that the scheme be notified.

Notice of Improvement Scheme

357. (1) Upon the approval of the draft improvement scheme by the Development Committee the Mukhya Nagar Adhikari shall prepare a notice stating—

(*a*) the fact that the scheme has been framed,

(*b*) the boundaries of the area comprised in the scheme, and

(*c*) the place at which particulars of the scheme, a map of the area comprised in the scheme and a statement of the land which it is proposed to acquire may be seen.

(2) The Mukhya Nagar Adhikari shall cause the said notice to be published for three consecutive weeks in the official *Gazette* and the Bulletin of the Mahapalika, if any, and also in one or more local newspaper or newspapers as the Mukhya Nagar Adhikari thinks fit, with a statement of the period within which objections will be received. A copy of the notice shall be sent to the President of the Cantonment Board if there is a Cantonment adjoining the City.

(3) The Mukhya Nagar Adhikari shall cause copies of all documents referred to in clause (c) of sub-section (1) to be delivered to any applicant on payment of such fee as may be prescribed.

Notice of proposed acquisition of land

358. (1) During the thirty days next following the first day on which any notice is published under section 357 in respect of any improvement scheme, the Mukhya Nagar Adhikari shall serve a notice on—

(*a*) every person whose name appears in the Mahapalika assessment list as being primarily liable to pay any tax assessed upon the annual value of any building or land which it is proposed to acquire in executing the scheme, and

(*b*) the occupier (who need not be named) of each premises, entered in the Mahapalika assessment list which the Mahapalika proposes to acquire in executing the scheme.

(2) Such notice shall—

(*a*) state that the Mahapalika proposes to acquire such land for the purposes of carrying out an improvement scheme, and

(*b*) require such person, if he dissents from such acquisition, to state his reasons in writing within a period of sixty days from the service of the notice.

Consideration of the Scheme by the Mahapalika

359. After the expiry of the periods respectively prescribed under sections 357 and 358 in respect of any improvement scheme, the Development Committee shall consider any objection or representation received thereunder and after hearing all persons making any such objection or representation who may desire to be heard, and after inserting in the scheme such modifications, if any, as it thinks fit, submit to the Mahapalika the scheme together with any objection or representation with its recommendation either that the scheme be abandoned or sanctioned.

Abandonment or sanction of scheme by Mahapalika

360. (1) The Mahapalika shall on receipt of scheme from the Development Committee proceed to take such scheme into consideration together with any objection or representation received or made under sections 357 and 358 and the recommendation of the Development Committee under section 359 and shall either abandon the scheme or sanction the scheme with such modifications, if any, as it may consider necessary :

Provided that in the case of a scheme of the estimated cost of over Rs.10,00,000 the sanction of the State Government shall also be obtained.

(2) Every scheme submitted to the State Government under proviso to sub-section (1) shall contain the following :

(*a*) a description of, and full particulars relating to, the scheme, and complete plans and estimates of the cost of executing the scheme ;

(*b*) a statement of the reasons for any modifications made in the scheme as originally framed ;

(*c*) a statement of objections (if any), received under section 357 ;

(*d*) a list of names of all persons (if any), who have dissented, under clause (*b*) of sub-section (2) of section 358 from the proposed acquisition of their land and a statement of the reasons given for such dissent, and

(*e*) a statement of the arrangements made or proposed by the Mahapalika for the re-housing of persons likely to be displaced by the execution of the scheme, for whose re-housing provision is required.

(3) When a scheme has been submitted to the State Government under the proviso to sub-section (1), the Mukhya Nagar Adhikari shall cause notice of the fact to be published for two consecutive weeks in the official *Gazette* and in the Bulletin of the Mahapalika, if any, and in the manner provided in section 357.

(4) If the Mahapalika declines to approve the scheme the Mukhya Nagar Adhikari shall forthwith draw up and publish in the manner provided in section 357 a notice stating that the Mahapalika has resolved not to proceed with the making of the scheme, and on such publication the notification relating to the scheme published under section 357 shall be deemed to be cancelled.

State Government's power in respect of the scheme

361. (1) The State Government may sanction either with or without modification, or may refuse to sanction, or may return for reconsideration, any improvement scheme submitted to it under section 360.

(2) If a scheme returned for reconsideration under sub-section (1) is modified by the Mahapalika, it shall be republished in accordance with section 357—

(*a*) in every case in which the modification affects the boundaries of the area comprised in the scheme, or involves the acquisition of any land not previously proposed to be acquired, and

(*b*) in every other case, unless the modification is, in the opinion of the State Government, not of sufficient importance to require republication.

Procedure on a scheme being modified by the Mahapalika

362. The provisions of section 357 shall apply *mutatis mutandis* to any scheme that the Mahapalika on its own authority is entitled to sanction, if after the consideration of objections and representations under section 360 any modification in the original scheme is made which gives rise to the conditions mentioned in sub-section (2) of section 361.

Notification of sanction of improvement scheme

363. (1) Whenever a scheme is sanctioned whether by the Mahapalika on its own authority or with the sanction of the State Government under the proviso to sub-section (1) of section 360, the fact shall be announced by notification in the official *Gazette* and it shall be incumbent on the Mahapalika, when it sanctions the scheme under its own authority, immediately to inform the State Government and to submit for the information of the State Government the details required by sub-section (2) of section 360.

Alteration of Improvement Scheme after sanction

364. At any time after an improvement scheme has been sanctioned by the State Government or by the Mahapalika on its own authority and before it has been completed, the Mahapalika may alter it :

Provided that—

(*a*) in the case of a scheme sanctioned by the State Government if any alteration is estimated to increase the estimated net cost of executing the scheme by more than rupees one lac, such alteration shall not be made without the previous sanction of the State Government,

(*b*) in the case of a scheme sanctioned by the Mahapalika on its own authority the alteration shall be sent to the State Government for information,

(*c*) if any alteration invloves the acquisition, otherwise than by agreement, of any land the acquisition of which has not been sanctioned by the State Government, the procedure prescribed in the foregoing sections of this Chapter shall, so far as applicable, be followed as if the alteration were a separate scheme.

Acquisition of land acquired for Improvement Scheme

365. (1) Upon the sanction of an improvement scheme by the State Government, the Mukhya Nagar Adhikari may enter into an agreement with any person for the purchase, leasing or exchange by the Mahapalika from such person of any land which the Mahapalika is authorized to acquire for an improvement scheme or any interest in such land.

(2) The Mahapalika may for the purposes of an improvement scheme sanctioned by Government acquire land or interest in land under the provisions of the Land Acquisition Act, 1894, as modified by the provisions of this Chapter.

(3) The Mukhya Nagar Adhikari may for the purposes of an improvement scheme exercise any of the powers conferred upon him under sub-section (2) of section 273 and section 290.

(4) All acquisition of land and interest in land for an improvement scheme authorized under this Chapter shall be completed at least up to the stage of making of awards within a period of

five years from the date of the notification of the Scheme under section 363 and any land in respect of which the acquisition is not so completed and the owner and occupier thereof shall cease to be subject to any liabilities under this Chapter :

Provided that the State Government may in any particular case before the expiry of such period and reasons to be recorded in writing extend the period by one year.

Restrictions against building, etc.

366. When a notice has been published under section 357 in respect of a slum clearance and re-building scheme, no person shall erect, re-erect, add to or alter any building or otherwise develop any land comprised in the insanitary and re-building area except in accordance with the re-building plan for the area covered by the scheme and subject to such restrictions and conditions as the Mukhya Nagar Adhikari may think fit to impose :

Provided that an owner who is aggrieved by a restriction or condition so imposed on the use of his land, or by a subsequent refusal of the Mukhya Nagar Adhikari to cancel or modify any such restriction or condition, may within thirty days appeal to the Judge. The Judge shall make such order in the matter as he thinks proper, and the decision of the Judge shall be final.

Clearance orders.

367. The Mukhya Nagar Adhikari with the sanction of the Development Committee may at any time after the notification of sanction has been published under section 363 require the occupiers of any building or buildings comprised in the insanitary area to be vacated for purposes of demolition within three months of the notice; and require the owner or owners of such building or buildings to demolish the same within a further period of one month and if the building is not demolished before the expiration of that period the Mukhya Nagar Adhikari shall take measures to demolish the building or buildings at the risk and cost of the owner, sell materials thereof and clear the site :

Provided that the vacation and demolition of buildings may proceed simultaneously.

Power to dispose of land.

368. Subject to the rules made under this Act the Mahapalika may retain, lease, sell, exchange or otherwise dispose of any land vested in or acquired by it under this Chapter :

Provided that in leasing, selling, exchanging or otherwise disposing of land acquired for any scheme under this Chapter preference to such extent and in such manner as may be prescribed shall be given to the persons whose land was acquired for such schemes.

Power to make surveys.

369. The Mukhya Nagar Adhikari may cause a survey of any land to be made whenever it considers that a survey is necessary for carrying out any of the purposes of this Chapter.

Power of entry.

370. (1) The Mukhya Nagar Adhikari may, subject to the provisions of section 562 with or without assistants or workmen, enter into or upon any land, in order—

(*a*) to make any inspection, survey, measurement, valuation or inquiry,

(*b*) to take levels,

(*c*) to dig or bore into the sub-soil,

(*d*) to set out boundaries and intended lines of work,

(*e*) to mark such levels, boundaries and lines by marks and cutting trenches, or

(*f*) to do any other thing,

whenever it is necessary to do so for any of the purposes of this Chapter, any rule or bye-law made, or scheme sanctioned under this Chapter.

(2) Whenever the Mukhya Nagar Adhikari enters into or upon any land in pursuance of sub-section (1), the Mahapalika shall pay for any damage that may be caused.

(3) The Mukhya Nagar Adhikari may make an entry for the purpose of inspection or search and may open or cause to be opened a door, gate or other barrier—

(*a*) if he considers the opening thereof necessary for the purpose of such entry, inspection or search, and

(*b*) if the owner or occupier is absent, or being present refuses to open such door or gate or barrier.

Tribunal to be constituted.

371. (1) A Tribunal shall be constituted for the City by the State Government with the powers and duties specified hereinafter.

(2) The Tribunal constituted under section 57 of the United Provinces Town Improvement Act, 1919, or the Cawnpore Urban Area Development Act, 1945, as the case may be, shall from the appointed day be dissolved.

(3) All suits and proceedings pending before the Tribunal constituted under the United Provinces Town Improvement Act, 1919 or the Cawnpore Urban Area Development Act, 1945, as the case may be, shall be tried and proceeded with by the Tribunal constituted under sub-section (1) as if they had been filed before such Tribunal and the provisions of this Act and any rules made thereunder shall apply to all such suits and proceedings.

Duties of Tribunal.

372. The Tribunal shall perform the functions of the Court with reference to all acquisition of land for the Mahapalika for the purposes of this Act under the Land Acquisition Act, 1894:

Provided that no such claim shall be entertained by the Tribunal, unless the claimant has deposited in Court such sum, not exceeding Rs.7,000, as the Tribunal may fix, as security, for the costs, which in the event of the claimant's failure may be awarded against him.

Personnel of Tribunal.

373. (1) The Tribunal shall consist of a Chairman and two assessors.

(2) The Chairman shall be a Civil Judicial Officer not below the rank of a District Judge:

Provided that no person shall be eligible for appointment as an assessor of the Tribunal if he is a member of the Mahapalika or would, if he were a member, be liable to removal under section 83.

(3) The Chairman of the Tribunal and the assessors shall be appointed by the State Government.

(4) The term of office of the Chairman shall be for such period as the State Government may from time to time appoint in this behalf and the term of office of each assessor shall be for a period not exceeding three years :

Provided that no assessor, who has become liable to the proviso to sub-section (2) shall be eligible for re-appointment.

(5) The State Government may remove the Chairman or an assessor from the Tribunal on the ground of incapacity or misbehaviour or for any other reason that the State Government considers sufficient.

(6) If the Chairman or an assessor of the Tribunal is absent for three months or more on account of illness or any other cause, the State Government shall appoint another person in his place.

Remuneration.

374. The Chairman and each assessor of the Tribunal shall be paid from the Mahapalika such fixed remuneration, if any, as the State Government may prescribe.

Staff of Tribunal.

375. (1) The Chairman of the Tribunal shall from time to time prepare a statement showing—

(*a*) the number and grades of the members of the staff necessary for the Tribunal,

(*b*) the salary to be paid to each member of the staff.

(2) The terms and conditions of service of the members of the staff of the Tribunal shall be determined by the Chairman with the previous approval of the State Government.

Modification of the Land Acquisition Act, 1894.

376. For the purpose of the acquisition of land for the Mahapalika under the Land Acquisition Act, 1894—whether under this Chapter or any other Chapter of this Act—

(*a*) the said Act shall be subject to the modifications specified in the Schedule to this Act ;

(*b*) the award of the Tribunal shall be deemed to be the award of the Court under the Land Acquisition Act, 1894.

Law applicable to the Tribunal.

377. In so far as they are not inconsistent with the provisions of this Act the provisions of the Code of Civil Procedure, 1908, and the Indian Evidence Act, 1872, shall apply to all proceedings before the Tribunal.

Power of Chairman.

378. In the hearing and decision of disputes under this Chapter—

(*a*) if there is any disagreement between the Chairman and the assessors of the Tribunal on a point of fact, the opinion of the majority shall prevail, and

(*b*) if there is any disagreement between the Chairman and the assessors of the Tribunal on a point of law or procedure, the assessors shall be bound by the opinion of the Chairman.

Decision of the Tribunal to be final.

379. Subject to the provisions of section 381 the decision of the Tribunal shall be final, and shall not be questioned in any court of law.

Enforcement of orders of the Tribunal.

380. Every order made by the Tribunal for the payment of money shall be enforced, on application, by the Court of Small Causes of the City, as if it were a decree of that Court.

Appeals.

381. (1) An appeal to the High Court shall lie from a decision of the Tribunal if—

(*a*) the Chairman of the Tribunal grants a certificate that the case is a fit one for appeal, or

(*b*) the High Court grants special leave to appeal, provided that the High Court shall not grant such special leave unless the Chairman of the Tribunal has refused to grant a certificate under clause (*a*).

(2) An appeal under sub-section (1) shall lie only on one or more of the following grounds, namely—

(*a*) the decision being contrary to law or to some usage having the force of law ;

(*b*) the decision having failed to determine some material issue of law or usage having the force of law ;

(*c*) a substantial error or defect which may have produced an error or defect in the decision of the case upon merits either on a point of fact or of law.

(3) Notwithstanding anything contained in the foregoing provisions, no appeal shall lie under this section unless the appellant has deposited the money which he is liable to pay under the order from which the appeal is filed.

(4) Subject to the provisions of sub-section (1), the provisions of the Code of Civil Procedure, 1908, with respect to appeals from original decrees, shall, so far as may be, apply to appeals under this Act.

(5) An appeal under sub-section (1) shall be deemed to be an appeal under the Code of Civil Procedure, 1908, within the meaning of article 156 of the First Schedule to the Indian Limitation Act, 1908.

(6) An order passed by the High Court on appeal under this Act shall be enforced, on application, by the Court of Small Causes of the City, as if it were a decree of that Court.

Preservation of trees and wood land.

382. (1) If it appears to the Development Committee that it is expedient in the interest of amenity to make provision for the preservation of any trees or woodlands in the City it may authorize the Mukhya Nagar Adhikari to make an order—

(a) prohibiting, except with his permission, the cutting down, topping, lopping or wilful destruction of any tree or group of trees to be specified in the order ;

(b) securing the replanting in such a manner as may be specified in the order of any part of a woodland of which trees have been felled in the course of forestry operations whether with or without the permission of the Mukhya Nagar Adhikari.

(2) Any person aggrieved by an order of the Mukhya Nagar Adhikari under sub-section (1) may appeal to the State Government within 30 days from the service of the order upon him and the State Government may confirm any such order without modification or subject to such modification as it considers fit or revoke the order.

Master plan for the City.

383. (1) A Mahapalika may, and if so required by the State Government shall, prepare in the manner and subject to the conditions prescribed by rules made in this behalf a Master Plan for the City.

Explanation—In this section "Master Plan" means a comprehensive plan showing therein the existing and proposed location and general layout of—

(a) arterial streets and transportation lines ;

(b) residential sections ;

(c) business areas ;

(d) industrial area ;

(e) educational institutions ;

(f) public parks, play-grounds and other recreational facilities ;

(g) public and semi-public buildings ;

(h) other land uses which are necessary.

(2) A Master Plan shall be revised at the end of every 10 years and may be revised earlier if the Mahapalika so thinks fit.

(3) Notwithstanding anything in this Act, the improvement schemes and the layout of new streets, drains, parks, factories and buildings shall, as far as may be, be in conformity with the Master Plan :

Provided that nothing in this section shall apply to the improvement schemes already sanctioned under the U. P. Town Improvement Act, 1919 or the U. P. Cawnpore Urban Area Development Act, 1945.

Power to make rules.

384. (1) The State Government may make rules to carry out the purposes of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the conduct of the business of the Tribunal, not being rules repugnant to the Code of Civil Procedure ;

(*b*) the manner of giving of public and personal notices in respect of improvement schemes ;

(*c*) submission by Mahapalika to the State Government progress reports about improvement schemes ;

(*d*) all matters relating to the preparation and revision of Master Plan for the City ;

(*e*) regulation of changes in land uses.

CHAPTER XV

SANITARY PROVISIONS

Scavenging and Cleansing

Muhkya Nagar Adhkari to provide for cleansing of streets and removal of refuse

385. For the purpose of securing the efficient scavenging and cleansing of all streets and premises the Mukhya Nagar Adhikari shall—

(1) provide for the surface cleansing of all streets in the City and removal of the sweeping therefrom ;

(2) provide or appoint in proper and convenient situations, public receptacles, depots and places for the temporary deposit of—

(*a*) dust, ashes, refuse and rubbish ;

(*b*) trade refuse ;

(*c*) carcasses of dead animals ;

(*d*) excrementitious and polluted matters.

(3) provide for the removal of the contents of all receptacles and deposits and of the accumulations at all places provided or appointed by him under the provisions of this Act for the temporary deposit of dust, ashes, refuse, rubbish, trade refuse, carcasses of dead animals and excrementitious and polluted matter:

Provided that the final disposal of the matters referred to in clauses (*a*) to (*d*) of sub-section (2) shall be subject to any general or special directions of the Mahapalika or the State Government.

Regulation of the disposal of rubbish, etc., removed through private agency

386. (1) The Mukhya Nagar Adhikari may, with the previous sanction of the Executive Committee by public notice to be given in the manner prescribed by rule, issue directions as to the time, manner and conditions, etc., in and subject to which any matters specified in sub-section (2) of section 385 may be removed along a street, deposited or otherwise disposed of.

(2) Without prejudice to the generality of the foregoing power, a direction issued under sub-section (1) may require that all matters specified in sub-section (2) of section 385 collected by scavengers by private scavenging shall be deposited in the public receptacles depots, and places provided or appointed under the said sub-section.

(3) Where any direction has been issued under sub-section (1), no person shall remove along a street, deposit or otherwise dispose of any matters specified in sub-section (2) of section 385 in contravention of such direction.

Refuse, etc., to be the property of the Mahapalika

387. All matters deposited in public receptacles, depots and places provided or appointed under section 385 and all matters collected by Mahapalika servants or contractors in pursuance of that section and section 386 shall be the property of the Mahapalika.

Provision may be made by Mukhya Nagar Adhikari for collection, etc., of excrementitious and polluted matter

388. (1) The Mukhya Nagar Adhikari may give public notice of his intention to provide, in such portion of the City as he may specify, for the collection, removal and disposal by Mahapalika agency, of all excrementitious and polluted matter from privies, urinals , and cesspools, and thereupon it shall be the duty of the Mukhya Nagar Adhikari to take measures for the daily collection, removal and disposal of such matter from all premises situated in such portion of the City.

(2) In any such portion as is mentioned in sub-section (1) and in any premises, wherever situated, in which there is a water-closet or privy connected with a Mahapalika drain, it shall not be lawful, except with the written permission of the Mukhya Nagar Adhikari, for any person who is not employed by or on behalf of the Mukhya Nagar Adhikari to discharge any of the duties of scavengers.

Special sanitary arrangements at certain places

389. (1) The Mukhya Nagar Adhikari may make such special arrangements, as he considers adequate for maintaining sanitation in the vicinity of any temple, math, mosque, tomb or any place of religious worship or instruction or entertainment to which large numbers of persons resort on particular occasions or in any place which is used for holding fairs, festivals or other public gatherings.

(2) The Mukhya Nagar Adhikari may require any person having control over any such place as aforesaid to pay to the Mahapalika such contribution towards the cost of the special measures taken under sub-section (1) as the Executive Committee may from time to time fix, and such person shall be bound to pay the same out of the funds relating to such place.

Inspection and Sanitary Regulation of Premises

Power to inspect premises for sanitary purpose

390. (1) The Mukhya Nagar Adhikari may inspect any building or other premises for the purpose of ascertaining the sanitary condition thereof.

(2) If it shall appear to the Mukhya Nagar Adhikari necessary for sanitary reasons so to do, he may, by written notice, require the owner or occupier of any building to cause the same or any portion thereof to be limewashed, disinfected or otherwise cleansed.

Building or rooms in buildings unfit for human habitation

391. (1) If the Mukhya Nagar Adhikari is of the opinion that any building or portion of a building intended for or used as a dwelling is unfit for human habitation, he may, with the previous approval of the Executive Committee and, unless there is in his opinion imminent danger to the occupier, after the owner or occupier of such building has been given an opportunity in the manner prescribed to show cause, by order in writing prohibit the use of such building or portion as a dwelling till such time as the same has been rendered fit for habitation.

Explanation—The expression "unfit for human habitation" in this section means unfit for human habitation by reason of sanitary defects, that is, lack of air space or ventilation, darkness, dampness, absence of adequate and readily accessible water-supply or sanitary accommodation or of other convenience and inadequate drainage of courtyard or passages.

(2) Where any order as is referred to in sub-section (1) has been made the owner or occupier of the building shall not use or suffer the same to be used for human habitation until the Mukhya Nagar Adhikari certifies that the same has been so rendered fit.

(3) Where the Mukhya Nagar Adhikari has made any order under sub-section (1) he shall give written instructions to the owner or occupier as to what modifications or alterations are required to be made for rendering such building or portion of building fit for human habitation.

(4) The Mukhya Nagar Adhikari may cause any person using any building or room in contravention of sub-section (2) to be removed from such building or portion by any police officer or Mahapalika servant.

(5) The provisions of sub-sections (5) and (6) of section 334 shall apply on the issue by the Mukhya Nagar Adhikari of a certificate that the building or portion of building, as the case may be, has been rendered fit for habitation as if such certificate were the withdrawal of notice issued under sub-section (1) of the said section.

Power to requir repairs of insanitary buildings

392. (1) If it shall appear to the Mukhya Nagar Adhikari that any building intended for or used as a dwelling is in any respect unfit for human habitation the Mukhya Nagar Adhikari may, by written notice, require the owner of the building to show cause why an order be not made to execute such works or carry out such alterations as would render the building fit for human habitation.

(2) In addition to serving a notice under this section on the owner of the building the Mukhya Nagar Adhikari may serve a copy of the notice on any other person having an interest in the building or in the land on which such building has been erected, whether as mortgagee, lessee or otherwise.

(3) If the owner and any persons referred to in sub-section (2) fail to file any objection or the Mukhya Nagar Adhikari upon hearing of any objections filed is satisfied that the execution of works or carrying out of alteration is necessary to render the building fit for human habitation he shall by written notice require the owner of the building within a reasonable time, not being less than 21 days as may be specified in the notice, to execute such works or carry out such alterations.

(4) Where it appears to the Mukhya Nagar Adhikari that immediate action is necessary for the purpose of preventing imminent danger to any person or property by the continuance of a dwelling in a state unfit for human habitation, he may dispense with the issue of a notice under sub-section (1) and forthwith issue the notice referred to in sub-section (3) and serve a copy thereof on any other person referred to in sub-section (2).

Power to order demolition of insanitary buildings

393. (1) If it shall appear to the Mukhya Nagar Adhikari that any building intended for or used as a dwelling is unfit for human habitation and is not capable at a reasonable expense of being rendered so fit, he shall serve upon the occupier of the building and the owner thereof a notice stating the date, not being less than twenty-one days after the service of the notice, and place at which the condition of the building and any offer with respect to the carrying out of works or the future use of the building will be considered by the Executive Committee, and every person upon whom such notice is served shall be entitled to be heard when the matter is so taken into consideration.

(2) A person upon whom notice is served under sub-section (1) shall, if he intends to submit an offer with respect to the carrying out of works, within twenty-one days from the date of the service of the notice upon him, serve upon the Mukhya Nagar Adhikari notice in writing of his intention to make the offer and shall, within such reasonable period as the Mukhya Nagar Adhikari may allow submit to him a list of the works which he offers to carry out.

(3) The Mukhya Nagar Adhikari may, with the previous approval of the Executive Committee, accept from any owner or any other person interested, an undertaking either that he will within a specified period carry out such works as will in the opinion of the Mukhya Nagar Adhikari render the building fit for human habitation, or that it shall not be used for human habitation until the Mukhya Nagar Adhikari on being satisfied that it has been rendered fit for that purpose and with the previous approval of the Executive Committee cancels the undertaking.

(4) If no such undertaking as is mentioned in sub-section (3) is accepted by the Mukhya Nagar Adhikari or if, in a case where the Mukhya Nagar Adhikari has accepted such an undertaking, any work to which the undertaking relates is not carried out within the specified period, or the building is at any time used in contravention of the terms of the undertaking, the Mukhya Nagar Adhikari may, with the previous approval of the Executive Committee, make a demolition order requiring that the building shall be vacated within a period to be specified in the order, not being less than twenty-eight days from the date on which the order becomes operative, and that it shall within such further period be demolished as the Mukhya Nagar Adhikari deems reasonable and shall serve a copy of the order upon every person upon whom the notice under sub-section (1) was served.

(5) Where it appears to the Mukhya Nagar Adhikari that immediate action is necessary for the purpose of preventing imminent danger to any person or property or a building of the nature specified in sub-section (1) and that the object of taking action under this section would be defeated by the delay in giving notice under that sub-section, he may with the previous approval of the Executive Committee make an order for

demolition in the manner, as far as may be, provided in sub-section (4) but with the minimum period for compliance with the order reduced to seven days.

Procedure where demolition order made

394. (1) As soon as a demolition order under section 393 has become operative, the owner of the building shall demolish it within the time limited in that behalf by the order, and if the building is not demolished within that time the Mukhya Nagar Adhikari may take measures to demolish the building and sell the materials thereof.

(2) Any expenses incurred by the Mukhya Nagar Adhikari under sub-section (1), after giving credit for the amount realized by sale of the materials, shall be payable by the owner of the building, and any surplus in the hands of the Mukhya Nagar Adhikari after payment of such expenses shall be refunded to the owner.

(3) Any person aggrieved by the decision of the Mukhya Nagar Adhikari under sub-section (2) may, within a period of one month, appeal to the Judge.

Appeal against demolition orders

395. Any person aggrieved by—

(i) an order under sub-section (1) of section 391 ; or

(ii) an order under sub-section (3) or sub-section (4) of section 392 ; or

(iii) a demolition order made under section 393, but not being an order made under sub-section (5) thereof;

may within twenty-one days after the date of the service of a copy of the order appeal to the Judge, and no proceedings shall be taken by the Mukhya Nagar Adhikari to enforce any order in relation to which an appeal is brought before the appeal is finally determined.

Disposal of Carcasses of Animals

Removal of carcasses of dead animals

396. (1) It shall be the duty of the Mukhya Nagar Adhikari to provide for the removal of the carcasses of all animals dying within the City.

(2) The occupier of any premises in or upon which any animal shall die or in or upon which the carcass of any animal shall be found, and the person having the charge of any animal which dies in the street or in any open place, shall, within three hours after the death of such animal or, if the death occurs at night within three hours after sunrise, report the death of such animal at the nearest office of the Mahapalika health department.

(3) For every carcass removed by Mahapalika agency, whether from any private premises or from public street or place, a fee for the removal of such amount as shall be fixed by the Mukhya Nagar Adhikari shall be paid by the owner of the animal or, if the owner is not known, by the occupier of the premises in or upon which, or by the person in whose charge, the said animal died.

Prohibition of cultivation, use of manure, or irrigation injurious to health

397. If the Director of Medical and Health Services or the Civil Surgeon or the Nagar Swasthya Adhikari certifies that the cultivation of any description of crops or the use of any kind of manure or the irrigation of land in any specified manner—

(*a*) in a place within the limits of a City is injurious or facilitates practices which are injurious to the health of persons dwelling in the neighbourhood, or

(*b*) in a place within or beyond the limits of a City is likely to contaminate the water-supply of such City or otherwise render it unfit for drinking purposes,

the Mukhya Nagar Adhikari may by public notice prohibit the cultivation of such crop, the use of such manure or the use of the method of irrigation so reported to be injurious, or impose such conditions with respect thereto as may prevent the injury or contamination:

Provided that when, on any land in respect of which such notice is issued, the act prohibited has been practised in the ordinary course of husbandry for the five successive years next preceding the date of prohibition, compensation shall be paid from the Mahapalika fund to all persons interested therein for damage caused to them by such prohibition.

Power to require owners to clear away noxious vegetation

398. The Mukhya Nagar Adhikari may, by notice, require the owner or occupier of any land to clear away and remove any vegetation or under-growth which may be injurious to health or offensive to the neighbourhood.

Regulation of Public Bathing, Washing, etc.

Places for public bathing, etc. to be fixed by Mukhya Nagar Adhikari, and regulation of use of such places

399. (1) The Mukhya Nagar Adhikari may from time to time by public notice—

(*a*) set apart portions of a river or other suitable places vesting in the Mahapalika for use by the public for bathing or for washing animals, or for washing or for drying clothes ;

(*b*) specify the times at which and the sex of persons by whom, such places may be used ;

(*c*) prohibit the use by the public for any of the said purposes of any place not so set apart ;

(*d*) prohibit the use by the public of any portion of a river or place not vesting in the Mahapalika for any of the said purposes ;

(*e*) regulate the use by the public of any portion of a river or other place vesting in the Mahapalika and set apart by him for any of the said purposes ; and

(*f*) regulate the use by the public of any portion of river or other place not vesting in the Mahapalika for any of the said purposes, and of any work, and of the water in any work, assigned and set apart under this Act for any particular purpose.

(2) The Mukhya Nagar Adhikari may charge such fees as the Executive Committee may fix for the use of any place set apart under clause (*a*) of sub-section (1) by any specified class or classes of persons or by the public generally.

Prohibition of bathing, contrary to order

400. Except as may be permitted by any order made by the Mukhya Nagar Adhikari in that behalf no person shall—

(*a*) bathe in or near any lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream or well or on any part of a river or other place vesting in the Mahapalika ;

(*b*) introduce in any tank, reservoir, stream, well or ditch, any animal, vegetable or mineral matter likely to render the water thereof offensive or dangerous to health ;

(*c*) whilst suffering from any contagious, infectious or loathsome disease, bathe on, in or near any bathing platform, lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream or well ;

(*d*) wash or cause to be washed in or near any such place or work, any animal, clothes or other articles ;

(*e*) throw, put or cause to enter into the water in any such place or work, any animal or other thing ;

(*f*) cause or suffer to drain into or upon any such place or work, or to be brought thereinto or thereupon, anything, or do anything, whereby the water shall be in any degree fouled or corrupted ;

(*g*) dry clothes in or upon any such place ;

(*h*) in contravention of any order made by the Mukhya Nagar Adhikari under section 399 use any portion of a river or any place not vesting in the Mahapalika for any purpose mentioned in the said section ;

(*i*) contravene the provisions of any notice given by the Mukhya Nagar Adhikari under section 399 for the use of any such portion of a river or place for any such purpose.

Regulation of Factories, Trades, etc.

Factory, etc., not to be newly established without permission of Mukhya Nagar Adhikari

401. No person shall—

(i) newly establish in any premises,

(ii) remove from one place to another,

(iii) re-open or renew after discontinuance for a period of not less than three years, or

(iv) enlarge or extend the area or dimensions of,

any factory, workshop or workplace in which it is intended to employ steam, water, electrical or other mechanical power or any bakery except with the previous written permission of the Mukhya Nagar Adhikari nor shall any person work or allow to be worked any such factory, workshop, workplace or bakery without such permission:

Provided that for the purpose of clause (iii) no such permission shall be required if during the period of discontinuance the machinery has not been removed from the place where the factory, workshop or bakery was originally established.

Prohibition of pollution or contamination of water by chemical, etc.

402. No person engaged in any trade or manufacture specified in section 438 or the rules shall—

(*a*) wilfully cause or suffer to be brought or to flow into any lake, tank, reservoir, cistern, well, duct or other place for water belonging to the Mahapalika or into any drain or pipe communicating therewith, any washing or other substance produced in the course of any such trade or manufacture as aforesaid :

(*b*) wilfully do any act connected with any such trade or manufacture as aforesaid, whereby the water in any such lake, tank, reservoir, cistern, well, duct or other place for water is fouled, polluted or contaminated.

Power to require private water course, etc. to be cleaned or closed.

403. (1) The Mukhya Nagar Adhikari may, by notice, require the owner of, or the person having control over, a private water-course, spring, tank, well or other place, the water of which is used for drinking, to keep and maintain the same in good repair and to clean the same, from time to time, of silt, refuse or decaying vegetation, and may also require him to protect the same from pollution in such manner as the Mahapalika may think fit.

(2) When the water of any such water-course, spring, tank, well or other place is proved to the satisfaction of the Mukhya Nagar Adhikari to be unfit for drinking the Mukhya Nagar Adhikari may, by notice, require the owner or person having control thereof to desist from so using such water or permitting others to so use it, and if, after such notice, such water is used by any person for drinking, the Mukhya Nagar Adhikari, may by notice require the owner or person having control thereof to close such well, either temporarily or permanently, or to enclose or fence such water-course, spring, tank, well or other place in such manner as he may direct, so that the water thereof may not be so used.

Latrines for factories, schools and places of public resort.

404. The Mukhya Nagar Adhikari may require by notice any person employing more than twenty workmen or labourers or owning, managing or having control of a market, school or theatre or other place of public resort to provide such latrines and urinals as it may deem fit, and to cause the same to be kept in proper order and to be daily cleansed:

Provided that nothing in this section shall apply to a factory regulated by the Indian Factories Act, 1911.

Power to require removal of nuisance arising from tanks, etc.

405. The Mukhya Nagar Adhikari may by notice require the owner or occupier of any land or building to cleanse, repair, cover, fill up or drain off a private well, tank, reservoir, pool, depression or excavation therein which may appear to the Mukhya Nagar Adhikari to be injurious to health or offensive to the neighbourhood:

Provided that the owner or occupier may require the Mukhya Nagar Adhikari to acquire at the expense of the Mahapalika or otherwise provide, any land or rights in land necessary for the purpose of effecting drainage ordered under this section.

Prevention and Checking of Dangerous Diseases

Power of Mukhya Nagar Adhikari, Nagar Swasthya Adhikari, etc. in case of dangerous diseases.

406. Where a person attacked with a dangerous disease or suffering from such disease, is—

(*a*) found lying in any vehicle or any public place, or

(*b*) without proper lodging or accommodation, or

(*c*) living in a room or house which he neither owns nor is otherwise entitled to occupy, or

(*d*) lodged in a room or set of apartments occupied by more than one family and any of the occupiers objects to his continuing to lodge therein ,

the Mukhya Nagar Adhikari may, on the advice of a medical officer of rank not inferior to that of an Assistant Surgeon remove the patient to the hospital or a place at which persons suffering from such disease are received for medical treatment and may do anything necessary for such removal.

Any place may at any time be inspected for purpose of preventing spread of dangerous disease.

407. The Mukhya Nagar Adhikari may at any time, by day or by night, without notice or after giving such notice of his intention as shall in the circumstances, appear to him to be reasonable, inspect any place in which any dangerous disease is reputed or suspected to exist, and take such measures as he shall think fit to prevent the spread of the said disease beyond such place.

Information of dangerous disease to be given.

408. Every person—

(*a*) being a medical practitioner and in the course of such practice becoming cognizant of the existence of any dangerous disease in any dwelling other than a public hospital in the City, or

(*b*) in default of such medical practitioner, being the owner or occupier of such dwelling, and being cognizant of the existence of any such dangerous disease therein, or

(*c*) in default of such owner or occupier, being the person in charge of, or in attendance on, a person suffering from any such dangerous disease in such dwelling and being cognizant of the existence of the disease therein ,

shall give information to such officer as the Mukhya Nagar Adhikari may appoint in this behalf respecting the existence of such disease.

Closure of lodging and eating houses.

409. The Mukhya Nagar Adhikari may on being satisfied that it is in the public interest so to do, by written order direct that any lodging house or any place where articles of food and drink are sold or prepared, stored or exposed for sale, being a lodging house or place in which a case of dangerous disease exists or has recently occurred, shall be closed for such period as may be specified in the order:

Provided that such lodging house or place may be declared to be open if the Nagar Swasthya Adhikari, certifies that it has been disinfected or is free from infection.

Persons suffering from dangerous disease, etc. not to do certain things.

410. No person while suffering from any dangerous disease or loathsome disorder shall—

(*a*) make or offer for sale an article of food or drink for human consumption or a medicine or drug, or

(*b*) wilfully touch any such article, medicine or drug when exposed for sale by others, or

(*c*) take any part in the business of washing or carrying soiled clothes.

Mukhya Nagar Adhikari may take special measures on outbreak of any dangerous disease.

411. (1) In the event of the City being at any time visited or threatened with an outbreak of any dangerous disease, or in the event of any infectious disease breaking out or being likely to be introduced into the City, the Mukhya Nagar Adhikari if he thinks the ordinary provisions of this Act and any rules thereunder or of any other law at the time in force are insufficient for the purpose, may, with the sanction of the State Government—

(*a*) take such special measures, and

(*b*) by public notice prescribe such temporary orders to be observed by the public or by any person or class of persons, as are specified in any rules in this behalf and as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

(2) The Mukhya Nagar Adhikari shall forthwith report to the Mahapalika any measures taken and any orders made by him under sub-section (1).

Disposal of the Dead

Places for disposal of the dead to be registered.

412. (1) Every owner or person having the control of any place already used for burying, burning or otherwise disposing of the dead, shall apply to the Mukhya Nagar Adhikari within a period of six months from the appointed day to register the same and the Mukhya Nagar Adhikari shall cause the same to be registered.

(2) Such applications shall be accompanied by a plan bearing the signature of a licensed surveyor in token of its having been prepared by or under the supervision of such surveyor, of the place to be registered, showing the locality, boundaries and extent of the same. The application shall also contain information as regards the name of the owner or person or community interested therein, the system of management and such further particulars as the Mukhya Nagar Adhikari may require.

(3) The Mukhya Nagar Adhikari may, on receipt of such application and plan, register the said place in a register which shall be kept for this purpose.

(4) The Mukhya Nagar Adhikari shall cause to be deposited in the Mahapalika office at the time of registration the plan referred to in sub-section (2).

(5) If the Mukhya Nagar Adhikari is not satisfied with the plan or statement of particulars he may refuse or postpone registration, until his objections have been removed.

(6) Every place vesting in the Mahapalika used for burying, burning or otherwise disposing of the dead shall be registered in the register kept under sub-section (3), and a plan showing the locality, extent and boundaries thereof and bearing the signature of the Mukhya Nagar Adhikari shall be deposited in the Mahapalika office.

New places for disposal of the dead not to be opened without permission of Mukhya Nagar Adhikari.

413. No place which has never previously been lawfully used as a place for the disposal of the dead and registered as such shall be opened by any person for the said purpose without the written permission of the Mukhya Nagar Adhikari who, with the approval of the Mahapalika, may grant or withhold such permission.

Provisions of new places for disposal of th dead.

414. (1) If the existing places for the disposal of the dead shall at any time appear to be insufficient or if any place is closed under the provisions of section 415 the Mukhya Nagar Adhikari shall, with the sanction of the Mahapalika provide other fit and convenient places for the said purpose, either within or without the City, and shall cause the same to be registered in the register kept under section 412 and shall deposit in the Mahapalika office, at the time of registration of each place so provided, a plan thereof showing the locality, extent and boundaries of the same.

(2) All the provisions of this Act and the rules and bye-laws shall apply to any place provided under sub-section (1) without the City and vesting in the Mahapalika as if such place were situate within the City.

Closing of place for burial of the dead.

415. (1) If after personal inspection the Mukhya Nagar Adhikari is at any time of opinion—

(*a*) that any place of public worship is or is likely to become injurious to health by reason of the state of the vaults or graves within the walls of or underneath the same, or in any churchyard or burial ground adjacent thereto, or

(*b*) that any other place used for the disposal of the dead is or is likely to become injurious to public health,

he may submit his considered opinion with the reasons therefor to the Mahapalika, and the Mahapalika shall forward the same with its opinion, for the consideration of the State Government

(2) Upon receipt of the opinion mentioned in sub-section (1) the State Government after such further enquiry as it deems fit to make, may, by notification published in the official *Gazette* and in such newspapers as it may deem necessary, direct that such place of public worship or other place shall no longer be used for the disposal of the dead.

(3) On the expiration of three months from the date of any such notification, the place to which it relates shall no longer be used for the disposal of the dead.

(4) Private space set apart for burial may be exempted from any such direction subject to such conditions as the Mukhya Nagar Adhikari may impose in this behalf, provided that the limits of such space are sufficiently defined and that it shall only be used for the burial of members of the family of the owners thereof.

Re-opening of place for burial of the dead.

416. (1) If, after personal inspection, the Mukhya Nagar Adhikari is of opinion that any place which had been closed under the provisions of section 415 has, by lapse of time, become no longer injurious to health and may without risk or danger be again used for the said purpose, he may submit his opinion with the reasons therefor to the Mahapalika, which shall forward the same, with its opinion for the consideration of the State Government.

(2) Upon receipt of such opinion the State Government, after such further enquiry as it deems fit to make, may, by notification in the official *Gazette*, direct that such place be re-opened for the disposal of the dead.

Burials within places of worship and exhumations not to be made without permission of Mukhya Nagar Adhikari.

f4b17. (1) No person shall, without the written permission o the Mukhya Nagar Adhikari under sub-section (2)—

(*a*) make any vault or grave or interment within any wall or underneath any passage, porch, portico, plinth or verandah of any place of worship ;

b) make any interment or otherwise dispose of any corpse in any place which is closed for the dead under section 415 ;

(*c*) build, dig, or cause to be built or dug any grave or vault, or in any way dispose of or suffer or permit to be disposed of, any corpse at any place which is not registered in the register kept under section 412 ;

(*d*) exhume any body, except under the provisions of section 176 of the Code of Criminal Procedure, 1898, or of any other law for the time being in force from any place for the disposal of the dead.

(2) The Mukhya Nagar Adhikari may in special cases grant permission for any of the purposes aforesaid, subject to such general or special orders as the State Government may from time to time make in this behalf.

Acts prohibited in connection with disposal of dead.

418. No person shall—

(*a*) retain a corpse on any premises without burning, burying or otherwise lawfully disposing of the same, for so long a time after death as to create a nuisance;

(*b*) carry a corpse or part of a corpse along any street without having and keeping the same decently covered or without taking such precautions to prevent risk of infection or injury to the public health as the Mukhya Nagar Adhikari may be public notice, from time to time think fit to requiry (*c*) except where no other route is available, carry a corpse or part of a corpse along any street along which the carrying of corpse is prohibited by a public notice issued by the Mukhya Nagar Adhikari in this behalf;

(*d*) remove a corpse or part of a corpse, which has been kept or used for purposes of dissection, otherwise than in a closed receptacle or vehicle;

(*e*) whilst conveying a corpse or part of a corpse place or leave the same on or near any street without urgent necessity;

(*f*) bury or cause to be buried any corpse or part of a corpse in a grave or vault or otherwise in such manner as that the surface of the coffin, or, when no coffin is used, the corpse or part of a corpse shall be at a less depth than six feet from the surface of the ground;

(*g*) build or dig, or cause to be built or dug, any grave or vault in any burial ground at a less distance than two feet from the margin of any other grave or vault;

(*h*) build or dig, or cause to be built or dug, a grave or vault in any burial ground in any line not marked out for this purpose by or under the order of the Mukhya Nagar Adhikari;

(*i*) without the written permission of the Mukhya Nagar Adhikari, re-open for the internment of a corpse or of any part of a corpse, a grave or vault already occupied;

(*j*) after bringing or causing to be brought to a burning ground any corpse or part of a corpse, fail to burn or cause the same to be burnt within six hours from the time of the arrival thereof at such ground;

(*k*) when burning or causing to be burnt any corpse, or part of a corpse, permit the same or any portion thereof to remain without being completely reduced to ashes or permit any cloth or other article used for the conveyance or burning of such corpse or part of a corpse to be removed or to remain on or near the place of burning without its being completely reduced to ashes.

State Government may extend provisions of chapter outside limits of City.

419. The State Government may, by order which shall be published in the official *Gazette*, apply to any area to be specified in the order but not lying beyond a distance of two miles from the limits of the City, the provisions of any section in this Chapter and of rules made thereunder, subject to such adaptations whether by way of modification, addition or omission, as it may deem to be necessary and expedient and thereupon the provisions and rules so applied shall have effect in that area as it were within the City.

Power to make rules.

420. (1) The State Government may make rules for the purposes of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing powers such rules may be provided for—

- (i) liability of owners and occupiers to collect and deposit dust, etc. ;
- (ii) liability of occupiers in areas not covered by section 388 to have collected and conveyed to receptacles, etc. provided under section 385 excrementitious and polluted matter accumulating upon their premises ;
- (iii) removal of rubbish and filth accumulating in large quantities on premises ;
- (iv) removal of nuisance caused by—
  - (*a*) accumulating of building materials on premises ;
  - (*b*) defective roofs or other insanitary condition of premises ;
  - (*c*) smoke of kitchens in dwelling houses and other smoke, dust, etc. ;
  - (*d*) pools, swamp, ditch, tank, well, pond, quarry holes, drain, water-course or any collection of water ;
  - (*e*) dangerous tanks, wells, holes, etc. ;
  - (*f*) dangerous quarrying ;
  - (*g*) collection of offensive matter in premises ;
- (v) cleansing of insanitary private water-course, spring, tank, well, etc. used for drinking ;
- (vi) regulation of keeping and tethering of animals in the City ;
- (vii) sanitary regulation of factories or workshops, work-place, etc. subject to the provisions of the Indian Boilers Act, 1923 and supplying of information connected therewith ;
- (viii) regulation of washing of clothes by washermen and provision of washing places ;
- (ix) giving of information of animals suffering from contagious or infectious disease ;
- (x) disinfection of houses and other public and private places to prevent spread of dangerous diseases;
- (xi) prohibition and regulation of the use of whistles, trumpets, loudspeakers and other noise-producing instrument operated by any mechanical means;
- (xii) the removal, trimming and cutting of trees and hedges.

CHAPTER XVI

REGULATION OF MARKETS, SLAUGHTER-HOUSES, CERTAIN TRADES AND ACTS, ETC.

What to be deemed private markets and slaughter-houses.

421. For the purposes of this Chapter all markets and slaughter-houses other than Mahapalika markets and slaughter-houses shall be deemed to be private markets and slaughter-houses.

Mukhya Nagar Adhikari's powers in respect of Mahapalika markets and slaughter-houses, etc.

422. Subject to the provisions of this Act and the rule and bye-laws framed thereunder the Mukhya Nagar Adhikari shall have the power—

(*a*) upon being authorized by the Mahapalika in that behalf, to construct, purchase, take on lease or otherwise acquire any building or land for the purpose of establishing a Mahapalika market or a Mahapalika slaughter-house or stock-yard within, and with the prior sanction of the State Government, without the limits of the Mahapalika and of extending or improving any existing Mahapalika market or slaughter-house ;

(*b*) from time to time, to build and maintain such Mahapalika markets, slaughter-houses and stock-yards and such stall, shops, sheds, pens and other buildings or conveniences as may be deemed necessary for the use of the persons carrying on trade or business in, or frequenting, such Mahapalika markets slaughter-houses or stock-yards ;

(*c*) to provide for maintaining in any such Mahapalika markets such buildings, places, machines, weights, scales and measures for weighing and measuring, goods sold therein as he shall think fit ;

(*d*) upon being authorized by the Mahapalika in that behalf, to close any Mahapalika market or slaughter-house or stock-yard or any portion thereof and to dispose of as the property of the Mahapalika the premises occupied for any market or slaughter-house or stock-yard or any portion thereof so closed ;

(*e*) with the previous sanction of the Mahapalika, to prohibit by public notice from time to time within a distance of fifty yards of any Mahapalika market the sale or exposure for sale of the commodities or of any of the commodities specified in the notice ordinarily sold in the said Mahapalika market and with like sanction to cancel or modify any such notice at any time ;

(*f*) to charge for the occupation or use of any stall, shop, standing, shed or pen or other building in a Mahapalika market, slaughter-house or stock-yard, and for the right to expose goods for sale in a Mahapalika market, and for weighing and measuring goods sold in any such market and for the right to slaughter animals in any Mahapalika slaughter-houses, such stallages, rents and fees as shall, from time to time be fixed by him, with the approval of the Executive Committee, in that behalf ;

(g) with the approval of the Executive Committee, farm the stallages, rents and fees leviable as aforesaid or any portion thereof, for any period not exceeding one year at a time, or

(*h*) to put up to public auction, or, with the approval of the Executive Committee, dispose of, by private sale, the privilege of occupying or using any stall, shop, standing, shed or pen or other building in a Mahapalika market, slaughter-house or stock-yard for such term and on such conditions as he shall think fit.

Opening of private markets and of private slaughter-houses.

423. (1) The Mahapalika shall from time to time determine whether the establishment of new private markets or the establishment or maintenance of private slaughter-houses shall be permitted in the City or in any specified portion of the City.

(2) No person shall establish a private market for the sale of, or for the purpose of exposing for sale, animals intended for human food, or any article of human food or livestock or articles of food for livestock or shall establish or maintain a private slaughter-house except with the sanction of and after obtaining a licence from the Mukhya Nagar Adhikari who shall be guided in giving such sanction and licence by the decisions of the Mahapalika at the time in force under sub-section (1):

Provided that the Mukhya Nagar Adhikari shall not refuse to give sanction or to grant licence for running a private market or a slaughter-house already lawfully established on the appointed day if application for such sanction and licence is made within two months of the appointed day, except on the ground that the place where the market or slaughter-house is established fails to comply with any requirements of this Act or of any rule or bye-law framed thereunder.

(3) When the establishment of a private market or a slaughter-house has been so sanctioned, the Mukhya Nagar Adhikari shall cause a notice of such sanction to be affixed in Hindi and such other language or languages as the Mahapalika may from time to time specify on some conspicuous spot on or near the building or place where such market is to be held.

Explanation—For the purpose of sub-section (2) the owner or occupier of a place in which a private market or slaughter-house is established shall be deemed to have established such market.

(4) The Mukhya Nagar Adhikari shall not cancel or suspend or refuse to renew any licence for keeping open a private market for any cause other than the failure of the owner thereof to comply with some provision of this Act. or with some regulation or with some bye-law.

(5) The Mukhya Nagar Adhikari may cancel or suspend any licence for failure of the owner of a private market to give in accordance with the conditions of his licence a written receipt for any stallage, rent, fee, or other payment received by him or his agent from any person for the occupation or use of any stall, shop, standing, shed, pen or other place therein.

(6) When the Mukhya Nagar Adhikari has refused, cancelled or suspended any licence to keep open a private market, he shall cause a notice of his having so done to be affixed in such language or languages as the Mahapalika may from time to time specify on some conspicuous spot on or near the building or place where such market has been held.

Removal of live cattle, sheep, goats or swine from any Mahapalika slaughter-house, stock-yard, market or premises.

424. No person shall, without the written permission of the Mukhya Nagar Adhikari and without the payment of such fees as may be prescribed by him, remove any live cattle, sheep, goats or swine from any Mahapalika slaughter-house or stock-yard or from any Mahapalika market or premises used or intended to be used for or in connexion with such slaughter-house or stock-yard:

Provided that such permission shall not be required for the removal of any animal which has not been sold within such slaughter-house, stock-yard, market or premises and which has not been within such slaughter-house, stock-yard, market or premises for a period longer than that prescribed under orders made by the Mukhya Nagar Adhikari in this behalf, or which has in accordance with any bye-laws, been rejected as unfit for slaughter at such slaughter-house, market or premises.

Power to expel persons contravening rules, bye-laws or regulations.

425. (1) The Mukhya Nagar Adhikari may expel from any Mahapalikamarket, slaughter-house or stockyard any person, who or whose servant has been convicted of contravening any rule, bye-law or regulation in force in such market, slaughter-house or stock-yard and may prevent such person, by himself or his servants, from further carrying on any trade or business in such market, slaughter-house or stock-yard or occupying any stall, shop, standing, shed, pen or other place therein, and may determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place.

(2) If the owner of any private market or slaughter-house licensed under this Act or the lessee of such market or slaughter-house or any stall therein or any agent or servant of such owner or lessee has been convicted for contravention of any rule, bye-law or regulation the Mukhya Nagar Adhikari may require such owner, lessee, agent or servant to remove himself from any such market or slaughter-house within such time as may be mentioned in the requisition and if he fails to comply with such requisition, he may in addition to any penalty which may be imposed on him under this Act, be summarily removed from such premises.

(3) If it appears to the Mukhya Nagar Adhikari that in any such case the owner or lessee is acting in collusion with a servant or agent convicted as aforesaid who fails to comply with

a requisition under sub-section (2), the Mukhya Nagar Adhikari may, if he thinks fit, cancel the licence of such owner or lessee in respect of such premises.

Prohibition of sale in Mahapalika markets without licence.

426. (1) No person shall, without licence from the Mukhya Nagar Adhikari sell or expose for sale any animal or article in any Mahapalika market.

(2) Any person contravening this section may be summarily removed by any Mahapalika officer or servant.

Prohibition of sale in unauthorized private markets.

427. No person who knows that any private market has been established without the sanction of the Mukhya Nagar Adhikari, 'or is kept open after a licence for keeping the same open has been refused, cancelled or suspended by the Mukhya Nagar Adhikari, shall sell or expose for sale therein any animal or articles of human food or any livestock or food for livestock.

Prohibition of sale of animals, etc. except in markets.

428. No person shall, without a licence from the Mukhya Nagar Adhikari, sell or expose for sale—

(*a*) any four-footed animal or any meat or fish intended for human food, in any place other than a Mahapalika or private market ;

(*b*) ices and syrups or aerated waters, kulfi, sugarcane juice, cut or peeled fruit and vegetables, any confectionary or sweetmeats whatsoever or such other cooked food or other articles intended for human consumption as may from time to time by public notice be specified by the Mukhya Nagar Adhikari in any place other than a Mahapalika or private market or licensed eating house or sweetmeat shop.

Restriction on slaughter of animals for sale.

429. No person shall without the permission of the Mukhya Nagar Adhikari slaughter or cause to be slaughtered any animal for sale in the City except in a Mahapalika slaughter-house or a licensed private slaughter-house.

Places for slaughter of animals not intended for sale or slaughtered for religious purpose.

430. The Mukhya Nagar Adhikari may, by public notice, and with the previous sanction of the Mahapalika, fix premises within the City in which the slaughter of animals of any particular kind not for sale or the cutting up of carcass of any such animal shall be permitted, and prohibit, except in case of necessity, such slaughter elsewhere within the City :

Provided that the provisions of this section shall not apply to animals slaughtered for any religious purpose.

Powers of District Magistrate in respect of animals not slaughtered for sale.

431. Whenever it appears to the District Magistrate to be necessary for the preservation of the public peace or order, he may, subject to the controol of the Prescribed Authority, prohibit or regulate, by public notice the slaughter, within the limits of a City, of animal or animals of any specified description for purposes other than sale and prescibe the mode and route in and by which such animals shall be brought to and meat shall be conveyed from, the place of slaughter.

Prohibition of import of cattle, etc. into City without permission.

432. (1) No person shall without the written permission of the Mukhya Nagar Adhikari bring into the City any cattle, sheep, goats or swine intended for human consumption, or the flesh of any such animal which has been slaughtered at any slaughter-house or place not maintained or licensed under this Act.

(2) Any police officer may arrest without warrant any person bringing into the City any animal or flesh in contravention of sub-section (1).

(3) Any animal brought into the City in contravention of this section may be seized by the Mukhya Nagar Adhikari or by any Mahapalika Officer or servant or by any Police Officer or in or upon Railway premises by any Railway servant and any animal or flesh so seized may be sold or otherwise disposed of as the Mukhya Nagar Adhikari shall direct and the proceeds, if any, shall belong to the Mahapalika.

(4) Nothing in this section shall be deemed to apply to cured or preserved meat.

Mukhya Nagar Adhikari may enter any place where slaughter of animals or sale of flesh contrary to the provisions of this Act suspected.

433. (1) If the Mukhya Nagar Adhikari shall have reason to believe that any animal intended for human consumption has been or is being or is likely to be slaughtered, or that the flesh of any such animal is being sold or exposed for sale, in any place or manner not duly authorized under the provisions of this Act, the Mukhya Nagar Adhikari may at any time, by day or by night, without notice, enter such place for the purpose of satisfying himself as to whether any provision of this Act or of any bye-law is being contravened thereat and may seize any such animal or the carcass of such animal or such flesh found therein.

(2) The Mukhya Nagar Adhikari may remove and sell by auction or otherwise dispose of any animal or the carcass of any animal or any flesh seized under sub-section (1).

(3) If within one month of such seizure the owner of the animal, carcass or flesh fails to appear and prove his claim to the satisfaction of the Mukhya Nagar Adhikari or if such owner is convicted of an offence under this Act in respect of such animal or carcass or flesh the proceeds of any sale under sub-section (1) shall vest in the Mahapalika.

(4) No claim shall lie against any person for compensation for any damage necessarily caused by any entry made under sub-section (1) or by the use of any force necessary for effecting such entry.

Mukhya Nagar Adhikari to provide for inspection of articles exposed for sale for human food.

434. It shall be the duty of the Mukhya Nagar Adhikari to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, dairy produce and any other article exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale and intended for human food or for medicine, the proof that the same was not exposed or hawked about or deposited or brought for any such purpose or was not intended for human food or for medicine resting with the party charged.

Unwholesome articles, etc. to be seized.

435. (1) The Mukhya Nagar Adhikari may at all reasonable times inspect and examine any such animal or article as aforesaid and any utensil or vessel used for preparing, manufacturing or containing the same.

(2) If any such animal or article appears to the Mukhya Nagar Adhikari to be diseased or unsound or unwholesome or unfit for human consumption, as the case may be, or is not what it is represented to be, or if any such utensil or vessel is of such kind or in such state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human consumption, he may seize and carry away such animal, article, utensil or vessel, in order that the same may be dealt with as hereinafter provided and he may arrest and take to the nearest police station any person in charge of any such animal or article.

Disposal of perishable articles seized under section 435.

436. If any meat, fish, vegetable or other article of a perishable nature be seized under section 435 and the same is, in the opinion of the Mukhya Nagar Adhikari, diseased, unsound, unwholesome or unfit for human consumption, as the case may be, the Mukhya Nagar Adhikari shall cause the same to be forthwith destroyed in such manner as to prevent its being again exposed for sale or used for human consumption and the expenses thereof shall be paid by the person in whose possession such article was at the time of its seizure.

Regulation of offensive trade.

437. (1) If it is shown to the satisfaction of the Mukhya Nagar Adhikari that any building or place within the limits of the City which any person uses or intends to use as a factory or other place of business for the manufacture, storage, treatment or disposal of any article, by reason of such use, or by reason of such intended use, occasions or is likely to occasion a public nuisance, the Mukhya Nagar Adhikari may at his option require by notice the owner or occupier of the building or place—

(*a*) to desist or refrain, as the case may be, from using or allowing to be used, the building or place for such purpose, or

(*b*) only to use, or allow to be used, the building or place for such purpose under such conditions or after such structural alterations as the Mahapalika imposes or prescribes in the notice with the object of rendering the use of the building or place for such purpose free from objection.

(2) Whoever, after receiving a notice given under sub-section (1), uses or allows to be used any building or place in contravention of the notice shall be liable on conviction to a fine which may extend to two hundred rupees and to a further fine which may extend to forty rupees for every day on which he so uses or allows to be used the place or building after the date of the first conviction.

Certain things not to be kept, and certain trades and operations not to be carried on without licence.

438. (1) Except under and in conformity with the terms and conditions of a licence granted by the Mukhya Nagar Adhikari, no person shall—

(*a*) keep in or upon any premises any article specified in the bye-laws in any quantity or in excess of the quantity specified in the bye-laws as the maximum quantity of such article which may at one time be kept in or upon the same premises without a licence; and

(*b*) keep in or upon any building intended for or used as a dwelling or within fifteen feet of such building cotton, in pressed bales or *boras* or loose, in quantity exceeding four hundred-weight ;

(*c*) keep, or allow to be kept, in or upon any premises horses, cattle or other four-footed animals—

(i) for sale,

(ii) for letting out on hire,

(iii) for any purposes for which any charge is made or any remuneration is received, or

(iv) for sale of any produce thereof ;

(*d*) carry on or allow to be carried on, in or upon any premises—

(i) any trade or operations connected with any trade specified in the bye-laws,

(ii) any trade or operation which is dangerous to life or health or property, or likely to create a nuisance either from its nature or by reason of the manner in which or the conditions under which, the same, is or is proposed to be carried on ;

(*e*) carry on within the City, or use any premises, for the trade or operation of a farrier.

(2) A person shall be deemed to have known that a trade or operation is dangerous or likely to create a nuisance within the meaning of paragraph (ii) of clause (*d*) of sub-section (1), if written notice to that effect, signed by the Mukhya Nagar Adhikari, has been served upon such person or affixed to the premises to which it relates.

(3) A person shall be deemed to carry on or to allow to be carried on a trade or operation within the meaning of clause (*d*) of sub-section (1) if he does any act in furtherance of such trade or is in any way engaged or concerned therein whether as principal, agent, clerk, master, servant, workman, handicraftsman or otherwise.

(4) When any premises are used in the manner described in clause (*c*) or (*d*) of sub-section (1) it shall be presumed, until the contrary is proved, that the owner or occupier of such premises, or both have permitted such use.

(5) It shall be lawful for the Mukhya Nagar Adhikari—

(*a*) to grant any licence referred to in sub-section (1), subject to such further restriction or conditions (if any), as he shall think fit in the circumstances of the case, or (*b*) to withhold any such licence.

(6) Every person to whom a licence is granted by the Mukhya Nagar Adhikari under sub-section (1) shall keep such licence in or upon the premises, if any, to which it relates.

(7) The Mukhya Nagar Adhikari may at any time by day or night enter or inspect any premises for the use of which a licence has been granted under this section.

(8) Nothing in sub-sections (6) and (7) shall be deemed to apply to mills for spinning or weaving cotton, jute, wool or silk or to any other large mill or factory which the Mukhya Nagar Adhikari may from time to time with the approval of the Executive Committee, specially exempt from the operation thereof.

(9) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry; provided that force shall not be used for effecting an entry, unless when there is reason to believe that an offence is being committed against some provision of this Act or some bye-law made under this Act.

Butchers and persons who sell flesh of animals to be licensed.

439. No person shall, without or otherwise than in conformity with the terms of a licence granted by the Mukhya Nagar Adhikari in this behalf—

(*a*) carry on within the City, or at any Mahapalika slaughter house, the trade of a butcher ;

(*b*) use any place in the City for the sale of the flesh of any animal intended for human consumption or any place without the City for the sale of such flesh for consumption in the City.

Licence required for dealing in dairy produce.

440. No person shall without, or otherwise than in conformity with the terms of a licence granted by the Mukhya Nagar Adhikari in this behalf—

(*a*) carry on within the City the trade or business of a dairyman ;

(*b*) use any place in the City as a dairy or for the sale of any dairy produce.

Conditions under which architects, engineers, structural designers, surveyors, or plumbers, can carry on their respective professions in the City.

441. (1) Every architect, engineer, structural designer, surveyor or plumber carrying on his profession in the City shall take out a licence in that behalf from the Mukhya Nagar Adhikari.

(2) The licence shall be for a term to be fixed by bye-laws, but may be renewed as often as may be necessary for further terms on payment of the prescribed fee.

(3) No licence shall be granted under section (1) unless the person applying therefor possesses the qualifications prescribed in that behalf and no application for a licence shall be refused if the applicant possesses those qualifications except on the ground that there is a reasonable apprehension that he is incompetent or

has been found guilty of gross misconduct in the discharge of his duty as architect, engineer, structural designer, surveyor, or plumber, as the case may be.

Licenced plumbers to be bound to execute work properly.

442. No licensed plumber shall execute any work under this Act carelessly or negligently or make use of bad material, appliance or fitting for the purpose of such work.

Executive Committee to fix fees for plumbers.

443. The Executive Committee shall fix the fees or charges to be paid to licensed plumbers for any work done by them for all or any purpose under this Act, and no licensed plumber shall demand or receive more than the fee or charge so prescribed for any such work.

Loitering and soliciting for immoral purpose.

444. Whoever, in a street or public place within the limits of the City loiters for the purpose of prostitution or importunes a person to the commission of sexual immorality, shall be liable on conviction to a fine which may extend to fifty rupees :

Provided that no court shall take cognizance of an offence under this section except on the complaint of the person importuned or on the complaint of a Mahapalika or a police officer not below the rank of a sub-inspector respectively authorized in this behalf in writing by the Mahapalika and the District Magistrate.

Brothels, etc.

445. (1) When a magistrate of the first class receives information—

(*a*) that a house in the vicinity of a place of worship or an educational institution or a boarding house, hostel or mess used or occupied by students is used as a brothel or for the purpose of habitual prostitution or by disorderly persons of any description, or

(*b*) that any house is used as aforesaid to the annoyance of respectable inhabitants in the vicinity, or

(*c*) that a house in the immediate neighbourhood of a Cantonment is used as a brothel or for the purpose of habitual prostitution,

he may summon the owner, tenant, manager or occupier of the house to appear before him either in person or by agent ; and if satisfied that the house is used as described in clause (*a*), clause (*b*), or clause (*c*), may by a written order, direct such owner, tenant, manager, or occupier, within a period to be stated in such order, not less than five days from the date thereof, to discontinue such use :

Provided that action under this sub-section shall be taken only—

(i) with the sanction or by order of the District Magistrate, or

(ii) on the complaint of three or more persons residing in the immediate vicinity of the house to which the complaint refers, or

(iii) on the complaint of the Mahapalika.

(2) If a person against whom an order has been passed by a Magistrate under sub-section (1) fails to comply with such order within the period stated therein, the Magistrate may impose on him a fine which may extend to one hundred rupees for everyday after the expiration of that period during which the house is so used.

Begging, etc.

446. Whoever, in a street or public place within the City, begs importunately for alms, or exposes or exhibits with the object of exciting charity a deformity or disease or an offensive sore or wound, shall be liable on conviction to imprisonment which may extend to one month or to a fine which may extend to fifty rupees or to both.

Improper feeding of animals kept for dairy purposes or used for food.

447. No person shall feed or allow to be fed animal which is kept for dairy purposes, or may be used for food, on filthy or deleterious substances.

Stacking, etc. of inflammable materials.

448. The Mukhya Nagar Adhikari may, where it appears to be necessary for the prevention of danger to life or property, by public notice prohibit all persons from stacking or collecting wood, dry grass, straw or other inflammable materials, or from placing mats or thatched huts or lighting fires in a place or within limits specified in the notice.

Displacing pavements, etc.

449. (1) No person shall displace, take up or make an alteration in, or otherwise interfere with, the pavement, gutter, flags or other materials of public street, or the fences, walls or posts thereof, or a Mahapalika lamp, lamp-post, bracket, direction-post, stand-post, hydrant or other such Mahapalika property therein without the written consent of the Mukhya Nagar Adhikari or other lawful authority, and no person shall extinguish a Mahapalika light.

(2) Any expense incurred by the Mahapalika by reason of the doing of any such thing as is mentioned in sub-section (1) may be recovered from the offender in the manner provided by Chapter XXI.

Discharging firearms, etc.

450. No one shall discharge firearms or let off fireworks or fire-balloons or engage in a game, in such a manner as to cause, or to be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property.

General provisions regarding grant, suspension or revocation of licences and written permissions and levy of fees, etc.

451. (1) Whenever it is provided by or under this Act that a licence or a written permission may be given for any purpose, such licence or written permission shall specify the period for which, and the restrictions and conditions subject to which, the same is granted and the date by which an application for the renewal of the same shall be made and shall be given under the signature of the Mukhya Nagar Adhikari or of a Mahapalika Officer empowered under section 119 to grant the same.

(2) Except as may otherwise be provided by or under this Act, for every such licence or written permission a fee may be charged at such rate as shall from time to time be fixed by the Mukhya Nagar Adhikari, with the sanction of the Mahapalika.

(3) Subject to the provisions of the proviso to sub-section (2) of section 423 any licence or written permission granted under this Act may at any time be suspended or revoked by the Mukhya Nagar Adhikari, if he is satisfied that it has been secured by the holder through misrepresentation or fraud or if any of its restriction or condition is infringed or evaded by the person to whom the same has been granted, or if the said person is convicted of an infringement of any of the provisions of this Act or of any rule, bye-law or regulation in any matter to which such licence or permission relates.

(4) When any such licence or written permission is suspended or removed, or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act be deemed to be without a licence or written permission, until the Mukhya Nagar Adhikari's order for suspending or revoking the licence or written permission is cancelled by him or until the licence or written permission is renewed, as the case may be :

Provided that when an application has been made for the renewal of a licence or permission by the date specified therein the applicant shall be entitled to act as if it has been renewed pending the receipt of orders.

(5) Every person to whom any such licence or written permission has been granted shall, at all reasonable times, while such written permission or licence remains in force, if so required by the Mukhya Nagar Adhikari, produce such licence or written permission.

(6) Every application for a licence or permission shall be addressed to the Mukhya Nagar Adhikari.

(7) The acceptance by or on behalf of the Mukhya Nagar Adhikari of the fee for a licence or permission shall not in itself entitle the person paying the fee to the licence or permission.

Licence Fees, etc.

452. The Mukhya Nagar Adhikari may charge a fee to be fixed by bye-law for any licence, sanction or permission which he is entitled or required to grant by or under this Act.

Power to make rules.

453. (1) The State Government may make rules to carry out the purposes of this Chapter.

(2) Without prejudice to the generality of the foregoing power such rules may provide for—

- (a) the regulation of sales within or outside Mahapalika or private markets ;
- (b) defining or determining the limits of private markets ;
- (c) proper approaches and environs and ventilation for private markets ;
- (d) proper pavement and drainage of private markets and slaughter-houses ;
- (e) issue of orders for the guidance of licensed surveyors, architects or engineers, structural designers, clerks, clerks of works and plumbers, respectively.

CHAPTER XVII

VITAL STATISTICS

Registration of births and deaths.

454. The Mukya Nagar Adhikari shall cause to be maintained a register of births and deaths in which shall be entered, in the manner prescribed, every birth or death taking place in the City.

Power to make rules.

455. The State Government may frame rules to provide for—

(*a*) the procedure for securing information regarding births and deaths in the City ;

(*b*) the particulars to be entered in any register of births and deaths ;

(*c*) the powers to be exercised by officers and servants of the Mahapalika for collecting the information regarding births and deaths ;

(*d*) giving of information of each birth and death in the City by the father, mother, or other relation of the new born or the deceased, as the case may be, or by any other person, to officers and servants of the Mahapalika and correction of errors in registers of births and deaths ;

(*e*) registration of the name of the child or of alteration of the names, and

(*f*) such other incidental and consequential matters as may be necessary for the purpose of carrying out the provisions of this Chapter.

CHAPTER XVIII

COMPENSATION

General power of Mukhya Nagar Adhikari to pay compensation.

456. In any case not otherwise expressly provided for in this Act, or in any rule or bye-law made thereunder, the Mukhya Nagar Adhikari may, with the previous approval of the Executive Committee, pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act or by any such rule or bye-laws in the Mukhya Nagar Adhikari, or in any Mahapalika officer or servant.

Compensation to the owner for value of immovable property deteriorated.

457. (1) In any case in which immovable property has deteriorated in value owing to the exercise of any power conferred by sections 231, 232, 249, 250, 251 and 284, the Mahapalika may offer to the owner of the property reasonable compensation.

(2) If the owner of the property which has deteriorated in value accepts the compensation, he shall be deemed to have granted to the Mahapalika a perpetual right to continue the exercise of its powers under any of the said sections in such manner as not to create greater nuisance or to cause greater damage than was being created, or caused at the time when compensation was received.

Principle on which and manner in which compensation should be determined.

458. (1) In determining the amount of compensation to be paid under sub-section (1) of section 457 the Mukhya Nagar Adhikari or the Mahapalika as the case may be, shall be guided as far as may be, by the provisions of sections 23 and 24 of the Land Acquisition Act, 1894 as amended by this Act and as to matters which cannot be dealt with under these provisions by such provisions as may be prescribed by rules.

(2) Any person aggrieved by the decision of the Mukhya Nagar Adhikari or the Mahapalika in the matter of award of compensation under section 456 or section 457, as the case may be, may, within a period of one month, appeal to the judge in accordance with the provisions of Chapter XX.

Power to make rules.

459. (1) The State Government may make rules to carry out the purposes of this Chapter.

(2) Without prejudice to the generality of the foregoing power such rules may provide for—

(*a*) the principles on the basis of which the compensation shall be determined ;

(*b*) assessment of compensation by the Mukhya Nagar Adhikari ;

(*c*) filing and disposal of objections to tentative assessments.

CHAPTER XIX

PENALTIES

Certain offences punishable with fine.

460. (1) Whoever—

(*a*) contravenes any provision of any of the sections, sub-sections or clauses mentioned in the first column of Part I of the table in Schedule III or of any order made thereunder, or

(*b*) fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses,

shall be punished, for each such offence, with fine which may extend to the amount mentioned in that behalf in the second column of the said Part.

(2) Whoever, after having been convicted of—

(*a*) contravening any provision of any of the sections, sub-sections or clauses mentioned in the first column of Part II of the table in Schedule III or of any order made thereunder, or

(*b*) failing to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses,

continues to contravene the said provision or to neglect to comply with the said requisition or fails to remove or rectify any work or thing done in contravention of the said provision, as the case may be, or fails to vacate any premises shall be punished, for each day that he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the second column of the said Part.

Offences punishable under the Penal Code.

461. (1) Whoever contravenes any provision of any of the sections, sub-sections or clauses of this Act mentioned in the first column of the following table or of any order made thereunder, and whoever fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses, shall be deemed to have committed an offence punishable under the section of the Indian Penal Code respectively specified in the second column of the said table as the section of the said Code under which such person shall be punishable, namely :

Sections of this Act	Sections of the Indian Penal Code under which offenders are punishable
267 (2), 400, clauses (*a*), (*b*), (*c*), (*d*), (*e*) and (*f*)	277
411	188
556	177

(2) Whoever fails to comply with a lawful requisition, notice or order of the Mukhya Nagar Adhikari for information or a written return relative to the determination of the annual value of any building or to the levy or assessment of any Mahapalika tax or whoever furnishes information or makes a return which he knows to be false, incorrect or misleading shall be deemed to have committed an offence punishable under section 176 or section 177 of the Indian Penal Code, as the case may be.

Punishment for offences of preparing false electoral rolls.

462. Any officer or servant of the Mahapalika who knowingly prepares or makes an entry in the list of persons qualified to be enrolled as voters at ward elections which is incorrect or false shall, on conviction, be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Penalty on member or Nagar Pramukh acquiring interest in contract, etc.

463. A member or Nagar Pramukh of a Mahapalika who, otherwise than with the permission in writing of the Prescribed Authority, knowingly acquires or continues to have, directly or indirectly, by himself or his partner, any share or interest in any contract or employment, with, by, or on behalf of the Mahapalika, shall be deemed to have committed an offence under section 168 of the Indian Penal Code:

Provided that a person shall not be deemed for the purposes of this section to acquire, or continue to have, any share or interest in a contract or employment by reason only of his—

(*a*) having a share or interest in any lease, sale or purchase of land or buildings, or in any agreement for the same, provided that such share or interest was acquired before he became a member or Nagar Pramukh, or

(*b*) having a share in a joint stock company which shall contract with, or be employed by, or on behalf of, the Mahapalika, or

(*c*) having a share or interest in a newspaper in which an advertisement relating to the affairs of the Mahapalika is inserted, or

(*d*) holding a debenture or otherwise being interested in a loan raised by, or on behalf of, the Mahapalika, or

(*e*) being retained by the Mahapalika as a legal practitioner, or

(*f*) having a share or interest in the occasional sale of an article in which he regularly trades to the Mahapalika to a value not exceeding, in any one year, such amount as the Mahapalika, with the sanction of the State Government, fixes in this behalf, or

(*g*) being a party to an agreement made with the Mahapalika for the supply of water for charges.

Provision against servants being interested in contract, etc.

464. (1) A person who has directly or indirectly, by himsel or his partner, a share or interest in a contract with, by, or on behalf of, a Mahapalika or in any employment with, under, by, or on behalf of, a Mahapalika, other than as a Mahapalika servant, shall be disqualified for being a servant of such Mahapalika.

(2) A Mahapalika servant who shall acquire or continue to have, directly or indirectly, by himself or his partner, a share or interest in any such contract or employment as aforesaid shall cease to be a Mahapalika servant, and his office shall become vacant.

(3) A Mahapalika servant who knowingly acquires or continues to have, directly or indirectly, a share or interest in a contract or, except in so far as concerns his employment as a Mahapalika servant, in any employment with, under, by or on behalf of, a Mahapalika of which he is a servant, shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

(4) Nothing in this section shall apply to any such share or interest in a contract or employment with, under, by, or on behalf of, the Mahapalika as is referred to in clauses (*b*), (*d*), and (*g*) of proviso to section 463, or to any share or interest acquired or retained with the permission of the Prescribed Authority, in any lease, sale or purchase of land or buildings, or in any agreement for the same.

Punishment for offences against section 267.

465. (1) Whoever contravenes any provision of sub-section (1) of section 267 shall, on conviction, be punished with imprisonment which may extend to one month or with fine which may extend to one hundred rupees or with both.

(2) When any person is convicted under sub-section (1) the Magistrate who convicts him may order the immediate removal of any building, or the immediate discontinuance of the operation or use of land, in respect of which such conviction has been held.

(3) If any order made under sub-section (2) is disobeyed or the execution thereof resisted, the offender shall, on conviction, be punished with imprisonment which may extend to one month or with fine which may extend to one hundred rupees or with both.

Penalty for evasion of octroi or toll.

466. Where any vehicle, animal or goods imported into the limits of the City are liable to the payment of toll or octroi any person who, with the intention of defrauding the Mahapalika, causes or abets the introduction of or himself introduces or attempts to introduce within the limits of the City any such vehicle, animals or goods upon which payment of the toll or octroi due on such introduction has neither been made nor tendered, shall, on conviction, be punished with fine which may extend to ten times the amount of such toll or octroi or to two hundred and fifty rupees, whichever may be greater.

General Penalty.

467. Whoever contravenes any provision of this Act or rule, bye-law, regulation, licence, permission or notice issued thereunder or fails to comply with any requisition lawfully made under any such provision shall, if no penalty is provided in any other provision of this Act for such contravention or failure, be punished, for each such offence, with fine which may extend to one hundred rupees and with further fine which may extend to twenty rupees for every day on which such contravention or failure continues after the first conviction.

Extent of penal responsibility of agents and trustees of owners.

468. No person who receives the rent of any premises in any capacity described in paragraphs (i), (ii) or (iii) of sub-clause (*a*) of clause (52) of section 2 shall be liable to any penalty under this Act for omitting to do any act as the owner of such premises, if he shall prove that his default was caused by his not having funds of, or due to, the owner sufficient to defray the cost of doing the act required.

Offence by companies, etc.

469. Where a person committing an offence under this Act or any rule, bye-law or regulation is a company or a body corporate, or an association of persons (whether incorporated or not), or a firm, every director, manager, secretary, agent or other officer or person concerned with the management thereof, and every partner of the firm shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Compensation payable by offenders against this Act for damage caused by them.

470. (1) If, on account of any act or omission, any person has been convicted of an offence against this Act or against any rule, regulation or bye-law, and, by reason of such act or permission of the said person, damage has occurred to any property of the Mahapalika, compensation shall be paid by the said person for the said damage notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence, and on non-payment of the amount of compensation so determined, the same shall be recovered under a warrant from the said Magistrate as if it were a fine inflicted by him on the person liable therefor.

CHAPTER XX

PROCEEDINGS BEFORE JUDGE, DISTRICT JUDGE, MAGISTRATE AND OTHERS

References to the Judge

471. In the following cases a reference shall be made to the Judge—

(1) Whether the Mukhya Nagar Adhikari may be directee to remove a shaft or pipe on the application of the owner of a building or hut under section 249 ;

(2) regarding the amount of the price for the land requiredd for setting forward a building under section 284 ;

(3) regarding the amount or payment of expenses for any work executed or any measure taken or things done under the orders of the Mukhya Nagar Adhikari or any Mahapalika Officer under section 522 ;

(4) regarding the amount or payment of expenses or compensation and the apportionment thereof falling under any of the provisions of this Act or any rule or bye-law thereunder not otherwise specifically provided for.

Appeals against Valuations and Taxes

Appeals when and to whom to lie

472. (1) Subject to the provisions hereinafter contained, appeals against any annual value or tax fixed or charged under this Act shall be heard and determined by the Judge.

(2) No such appeal shall be heard unless—

(*a*) it is brought within fifteen days after the accrual of the cause of complaint ;

(*b*) in the case of an appeal against an annual value an objection has previously been made to the Mukhya Nagar Adhikari as provided under this Act and such objection has been disposed of ;

(*c*) in the case of an appeal against any tax in respect of which provision exists under this Act for an objection to be made to the Mukhya Nagar Adhikari against the demand, such objection has previously been made and disposed of ;

(*d*) in the case of an appeal against any amendment made in the assessment book for property taxes during the official year, an objection has been made by the person aggrieved within fifteen days after he first received notice of such amendment, and his objection has been disposed of ;

(*e*) in the case of an appeal against a tax, or in the case of an appeal made against an annual value after a bill for any property tax assessed upon such value has been presented to the appellant, the amount claimed from the appellant has been deposited by him with the Mukhya Nagar Adhikari.

473. For the purposes of section 472, cause of complaint shall be deemed to have accrued as follows, namely— Cause of complaint when to be deemed to have accrued

(*a*) in the case of an appeal against an annual value, on the day when the objection made to the Mukhya Nagar Adhikari against such value is disposed of ;

(*b*) in the case of an appeal against any tax referred to in clause (*c*) of sub-section (2) of the said section on the day when the objection against the tax is disposed of by the authority concerned;

(*c*) in the case of an appeal against any amendment made in the assessment book for property taxes during the official year, on that day when the objection made to the Mukhya Nagar Adhikari by the person aggrieved against such amendment is disposed of ;

(*d*) in the case of an appeal against a tax not covered by clause (*b*) above on the day when payment thereof is demanded or when a bill therefor is served.

474. Where any appeal against the annual value or tax fixed or charged under this Act is pending and all the parties interested agree that any matter in difference between them shall be referred to arbitration, they may, at any time before a decision is given in such appeal, apply in writing to the Judge for an order of reference on such matter and on such application being made the provisions of the Arbitration Act, 1940, relating to arbitration in suits shall, so far as they can be made applicable, apply to such application and the proceedings to follow thereon, as if the said Judge were a Court within the meaning of the Act and the application were an application made in a suit. Arbitration

475. (1) If any party to an appeal against an annual value makes an application to the Judge either before the hearing of the appeal or at any time during the hearing of the appeal, but before evidence as to value has been adduced, to direct a valuation of any premises in relation to which the appeal is made, the Judge may, in his discretion, appoint a competent person to make the valuation and any person so appointed shall have power to enter on, survey and value the premises in respect of which the direction is given : Appointment o expert valuer

Provided that, except when the application is made by the Mukhya Nagar Adhikari no such direction shall be made by the Judge unless the applicant gives such security as the Judge thinks proper for the payment of the costs of valuation under this sub-section.

(2) The costs incurred for valuation under sub-section (1) shall be costs in the appeal, but shall be payable in the first instance by the applicant.

(3) The Judge may, and on the application of any party to the appeal shall, call as a witness the person under sub-section (1) for making the valuation and, when he is so called an party to the appeal shall be entitled to cross-examine him.

Appeal to the District Judge.

476. An appeal shall lie to the District Judge—

(*a*) from any decision of the Judge in an appeal under section 472 by which an annual value in excess of twelve thousand rupees is fixed, and

(*b*) from any other decision of the Judge in an appeal under the said section, upon a question of law or usage having the force of law or the construction of a document ;

Provided that no such appeal shall be heard by the District Judge unless it is filed within one month from the date of the decision of the Judge.

Costs of proceedings in appeal.

477. The costs of all proceedings in appeal under section 472 before the Judge including those of arbitration under section 474 and of valuation under section 475 shall be payable by such parties in such proportion as the Judge shall direct and the amount thereof shall, if necessary, be recoverable, as if the same were due under a decree of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887.

Unappealed values and taxes and decisions on appeal to be final

478. (1) Every annual value fixed under this Act against which no complaint is made as hereinbefore provided and the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as hereinbefore provided, and the decision of the Judge aforesaid upon any appeal against any such value or tax if no appeal is made therefrom under section 476 and if such appeal is made the decision of the District Judge in such appeal shall be final.

(2) Effect shall be given by the Mukhya Nagar Adhikari to every decision of the said Judge or District Judge on any appeal against any such value or tax.

Appeals to the Judge and the District Judge

Appeal to the Judge.

479. In addition to any other appeals to the Judge provided under this Act, appeals shall lie to the Judge against the orders of the Mukhya Nagar Adhikari in the following cases, namely—

(1) an order declining to remove a shaft or pipe under section 249 ;

(2) an order requiring a building to be set forward under section 284 ;

(3) an order requiring the owner or occupier to repair, protect or enclose a place found to be dangerous under section 308 :

Provided that no such appeal shall lie unless it is filed within one month from the date of the order of the Mukhya Nagar Adhikari.

Appeal against demolition orders

480. (1) On an appeal being made under section 395 against a demolition order made under section 393 the Judge may make such order either confirming or quashing or varying the

order as he thinks fit, and he may if he thinks fit, accept from an appellant any such undertaking as might have been accepted by the Mukhya Nagar Adhikari and any undertaking so accepted by the Judge shall have the like effect as if it had been given to and accepted by the Mukhya Nagar Adhikari under section 393:

Provided that the Judge shall not accept from an appellant upon whom such a notice as is mentioned in sub-section (1) of section 393 was served, an undertaking to carry out any work unless the appellant complied with the requirements of sub-section (2) of that section.

(2) An appeal shall lie to the District Judge from a decision of the Judge on an appeal under this section, within one month of such decision, when the annual value entered in the Mukhya Nagar Adhikari's assessment book in accordance with the provisions of this Act, of the premises to which the demolition order appealed against wholly or partially relates, exceeds two thousand rupees.

(3) A decision passed by the Judge under this section if an appeal does not lie therefrom under sub-section (2), or if no appeal is filed, and if an appeal is filed, the decision of the District Judge in appeal, shall be final.

(4) Any order against which an appeal might be brought under this section shall, if no such appeal is brought, become operative on the expiration of the period of twenty-one days mentioned in section 395, and shall be final and conclusive as to any matters which could have been raised on such an appeal, and any such order against which an appeal is brought shall if and so far as it is confirmed by the Judge, or the District Judge become operative as from the date of the final determination of the appeal.

(5) For the purposes of this section, the withdrawal of an appeal shall be deemed to be the final determination thereof, having the like effect as decision confirming the order, appealed against and, subject as aforesaid, an appeal shall be deemed to be finally determined on the date when the decision of the District Judge is given, or in a case where no appeal is brought to the District Judge, upon the expiration of the period within which such an appeal might have been brought, or in a case where no appeal lies to the District Judge on the date when the decision of the Judge is given.

Appeals against decision of the Judge regarding payment of expenses for works executed.

481. (1) An appeal shall lie to the District Judge from a decision of the Judge, regarding the amount or payment of expenses for any work executed, when the amount of the claim in respect of which the decision is given exceeds two thousand rupees:

Provided that no such appeal shall be heard by the District Judge unless it is filed within one month from the date of the decision of the Judge.

(2) The decision of the Judge regarding the amount of payment of expenses for any work executed, if no appeal is filed under this section, and, if an appeal is filed, the decision of the District Judge in such appeal shall be final.

(3) When an appeal is filed under sub-section (1) in respect of a decision regarding the amount or payment of expenses for any work executed, the Mukhya Nagar Adhikari shall defer proceedings for the recovery of the amount determined under the said section to be due pending the decision of the District Judge and, after the decision, shall proceed to recover only such amount, if any, as shall be thereby determined to be due.

Proceedings before Judge

Remedy of owner of building or land against occupier who prevents his complying with any provisions of this Act.

482. (1) If the owner of any building or land is prevented by the occupier thereof from complying with any provision of this Act or of any rule, regulation or bye-law or with any requisition made under this Act, or under any such rule, regulation or bye-law in respect of such building or land, the owner may apply to the Judge.

(2) The Judge, on receipt of any such application, may make a written order requiring the occupier of the building or land to afford all reasonable facilities to the owner for complying with the said provision or requisition, or to vacate the premises temporarily if the said provision or requisition relates to any action under section 331, involving the safety or convenience of such occupier, and may also, if he thinks fit, direct that the cost of such application and order be paid by the occupier.

(3) After eight days from the date of such order, it shall be incumbent on the said occupier to afford all such reasonable facilities to the owner for the purpose aforesaid or to vacate the premises temporarily as shall be prescribed in the said order; and in the event of his continued refusal so to do the owner shall be discharged, during the continuance of such refusal, from any liability which he would otherwise incur by reason of his failure to comply with the said provision or requisition.

(4) Nothing in this section shall affect the powers of the Mukhya Nagar Adhikari under any provision of this Act to cause any premises to be vacated.

Power to summon witnesses and compel production of documents.

483. The Judge shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely—

(*a*) enforcing the attendance of any person and examining him on oath or affirmation ;

(*b*) compelling the production of documents, and

(*c*) issuing commissions for the examination of witnesses and any proceeding before Judge under this Chapter shall be deemed a "Judicial proceeding" within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

Fees in proceedings before the Judge.

484. (1) The State Government may, from time to time by notification in the official *Gazette*, prescribe what fee, if any, shall be paid

(*a*) on any application, appeal or reference made under this Act to the Judge, and

(*b*) previous to the issue, in any inquiry or proceeding of the Judge under this Act, of any summons or other process :

Provided that the fees, if any, prescribed under clause (*a*) shall not, in cases in which the value of the claim or subject-matter is capable of being estimated in money, exceed the fees for the time being levied, under the provisions of the Provincial Small Causes Courts Act, 1887, in cases in which the value of the claim or subject-matter is of like amount.

(2) The State Government may from time to time by a like notification determine by what person any fee prescribed under clause (*a*) of sub-section (1) shall be payable.

(3) No application, appeal or reference shall be received by the Judge until the fee, if any, prescribed therefor under clause (*a*) of sub-section (1) has been paid.

Exemption of poor persons from fees.

485. The Judge may, whenever he thinks fit, receive an application, appeal or reference made under this Act, by or on behalf of a poor person, and may issue process on behalf of any such person without payment or on a part payment of the fees prescribed under section 484.

Repayment of half fees on settlement before hearing.

486. Whenever any application, appeal or reference made to the Judge under this Act is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the Judge to the parties by whom the same have been respectively paid.

Appointment of Magistrates

Appointment of a Magistrate of the First Class.

487. (1) The State Government may with the consent of the Mahapalika create one or more posts of Magistrates of the First Class for the trial of offences against this Act, or may appoint any person to such post and may also appoint such ministerial officers or the court of any such Magistrate as it may think necessary :

Provided that notwithstanding the appointment of one or more Magistrates of the First Class under this section, it shall be open to the District-Magistrate subject to the rules for the time being in force under section 17 of the Code of Criminal Procedure, 1898, regulating the distribution of business in the Courts of Magistrates of the First Class to make such distribution of the work of trial of such offences and of all other work before the courts of the Magistrates (including any appointed under this section) as may appear to him most conducive to efficiency.

(2) Such Magistrate or Magistrates and their establishments shall be paid such salary, pension, leave allowance and other allowances as may, from time to time, be fixed by the State Government.

(3) The amounts of the salary and other allowances as fixed under sub-section (2), together with all other incidental charges shall be reimbursed to the State Government by the Mahapalika which shall also pay to the State Government such contribution towards the pension, leave and other allowances of such Magistrate or Magistrates and their establishment as may from time to time be fixed by the State Government :

Provided that the State Government may, with the concurrence of the Mahapalika, direct that in lieu of the amounts payable under this section the Mahapalika shall pay to the State Government annually on such date as may be fixed by the State Government in this behalf such fixed sum as may be determined by the State Government in this behalf.

References to Magistrates

Reference to Magistrates.

488. A reference shall be made to a Magistrate of the First Class having jurisdiction within the limits of the City in the matter of the detention of a person suffering from a dangerous disease in a public hospital under the rules.

Disposal of animals and articles of non-perishable nature seized under section 431.

489. (1) Any animal and any article not of a perishable nature and any utensil or vessel seized under section 435 shall be taken before a Magistrate of the First Class.

(2) If it shall appear to such Magistrate that any such animal or article is diseased, unsound or unwholesome or unfit for human consumption, as the case may be, or is not what it was represented to be or that such utensil or vessel is of such kind or in such state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human consumption, he may, and, if it is diseased, unsound, unwholesome or unfit for human consumption, he shall cause the same to be destroyed, at the charge of the person in whose possession it was at the time of its seizure, in such manner as to prevent the same being again exposed or hawked about for sale or used for human consumption, or for the preparation or manufacture of, or for containing any such article as aforesaid.

Penalty for possessing food which appears to be diseased, unsound or unwholesome or unfit for human food.

490. In every case in which food, on being dealt with under section 489, appears to the Magistrate to be diseased, unsound or unwholesome or unfit for human consumption, the owner thereof or the person in whose possession it was found, not being merely bailee or carrier thereof, shall on conviction, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to five hundred rupees.

Application for summons to be refused if not applied for within a reasonable time.

491. In all prosecutions under section 490 the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against such section, unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused.

Proceedings before Magistrates and the Sessions Court

Cognizance of offences.

492. (1) An offence for the contravention of section 417 shall be cognizable.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences against this Act, or against any rule, regulation or bye-law, whether committed within or without the City, shall be cognizable by a Magistrate of the First Class having jurisdiction in the City and no such Magistrate shall be deemed to be incapable of taking cognizance of any such offence or of any offence against any enactment hereby repealed, by reason only of his being liable to pay any Mahapalika tax or of his being benefited by the Mahapalika Fund.

(3) Notwithstanding anything contained in section 200 of the said Code, it shall not be necessary in respect of any offence against this Act or any rule, regulation or bye-law made thereunder, to examine the complainant when the complaint is presented in writing.

Limitation of time within which complaints of offences punishable under this Act shall be entertained.

493. No Magistrate shall take cognizance of any offence punishable under this Act, or any rule, regulation or bye-law, unless complaint of such offence is made before him—

(*a*) within six months next after the date of the commission of such offence ; or

(*b*) if such date is not known or the offence is a continuing one within six months next after the commission or discovery of such offence.

Power of Magistrate to hear cases in absence of accused.

494 If any person summoned to appear before a Magistrate to answer a charge of an offence punishable under this Act or any rule, regulation or bye-law, fails to appear at the time and place mentioned in the summons, and if service of summons is proved to the satisfaction of the Magistrate and no sufficient cause is shown for the non-appearance of such person the Magistrate may hear and determine the case in his absence.

Report of Public Analyst to Government.

495 Any document purporting to be a report under the hand of the Public Analyst to the Government of Uttar Pradesh upon any article duly submitted to him for analysis may be used as evidence of the facts thereinstated in any inquiry or prosecution under this Act without proof thereof.

Complaint concerning nuisances

496. (1) Any person who resides in the City may complain to a Magistrate of the First Class having jurisdiction therein of the existence of any nuisance or that in the exercise of any power conferred by sections 231, 232, 249, 250, 251, 310 or 385 more than the least practicable nuisance has been created.

(2) Upon receipt of any such complaint, the Magistrate, after making such inquiry as he thinks necessary, may, if he sees fit, direct the Mukhya Nagar Adhikari—

(*a*) to put in force any of the provisions of this Act or of any rule, regulation or bye-law or to take such measures as to such Magistrate shall seem practicable and reasonable for preventing, abating, diminishing or remedying such nuisance ;

(*b*) to pay to the complainant such reasonable costs of and relating to the said complaint and order as the said

Magistrate shall determine, inclusive of compensation for the complainant's loss of time in prosecuting such complaint.

(3) Subject to the provisions of section 497 it shall be incumbent on the Mukhya Nagar Adhikari to obey every such order

(4) Nothing in this Act contained shall interfere with the right of any person who may suffer injury or whose property may be injuriously affected by any act done in the exercise of any power conferred by sections 231, 232, 249, 250, 251, 310 or 385 to recover the damages for the same.

Appeal to the Sessions Court from order passed under section 496.

497. (1) An appeal shall lie to the Sessions Court from an order passed by a Magistrate under section 496 within one month of the date thereof.

(2) The Sessions Court may, when disposing of an appeal under sub-section (1), direct by whom and in what proportions, if any, the costs of the appeal are to be paid, and costs so directed to be paid may, on application to a Magistrate of the First Class having jurisdiction in the City, be recovered by him, in accordance with the direction of the Sessions Court, as if there were a fine imposed by himself.

(3) When an appeal has been preferred to the Sessions Court under this section, the Mukhya Nagar Adhikari shall defer action upon the order of the Magistrate until such appeal has been disposed of and shall thereupon forthwith give effect to the order passed in such appeal by the Sessions Court, or if the order of the Magistrate has not been disturbed by the Sessions Court, then to his order.

(4) The State Government may, after consulting the High Court from time to time, make rules for regulating the admission of appeals under sub-section (1) and the procedure to be followed in the adjudication thereof.

Arrest of Offenders

Offenders against this Act may in certain cases be arrested by police officers.

498. (1) Any police officer may arrest any person who commits in his view any offence against this Act or against any rule, regulation or bye-law, if the name and address of such person be unknown to him, and if such person, on demand, declines to give his name and address or gives a name and address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address are ascertained or, without the order of a Magistrate, for any longer time, not exceeding twenty-four hours from the arrest, than is necessary for bringing him before a Magistrate competent to take cognizance of his offence.

Miscellaneous

Code of Civil Procedure to apply.

499. (1) Save as expressly provided by this Chapter, the provisions of the Code of Civil Procedure, 1908, relating to appeals from original decrees shall *mutatis mutandis* apply to appeals to the District Judge.

(*b*) show cause to the satisfaction of the Mukhya Nagar Adhikari or of such officer as the Mahapalika by regulation may appoint in this behalf, why he should not pay the same,

such sum with all costs of the recovery may be recovered under a warrant caused to be issued by the Mahapalika in the form prescribed by rule, or to the like effect, by distress and sale of the movable property of the defaulter.

(2) Every warrant issued under this section shall be signed by the Mukhya Nagar Adhikari, or by the officer referred to in clause (*b*) of sub-section (1).

Forcible entry for purpose of executing warrant.

508. It shall be lawful for a Mahapalika officer to whom a warrant issued under section 507 is addressed, to break open, at any time between sunrise and sunset, any outer or inner door or window of a building, in order to make the distress directed in the warrant in the following circumstances and not otherwise :

(*a*) if the warrant contains a special order authorizing him in this behalf ;

(*b*) if he has reasonable grounds for believing that the building contains property which is liable to seizure under the warrant, and

(*c*) if, after notifying his authority and purpose and duly demanding admittance he cannot otherwise obtain admittance :

Provided that such officer shall not enter or break open the door of an apartment appropriated for women, until he has given any women therein an opportunity to withdraw.

Manner of executing warrant.

509. (1) It shall also be lawful for such officer to distrain, wherever it may be found, any movable property of the person therein named as defaulter, subject to the provisions of sub-sections (2) and (3).

(2) The following property shall not be distrained :

(*a*) the necessary wearing apparel and bedding of the defaulter, his wife and children ;

(*b*) the tools of artisans ;

(*c*) books of account ;

(*d*) when the defaulter is an agriculturist, his implements of husbandry, seed-grain and such cattle as may be necessary to enable him to earn his livelihood.

(3) The distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any articles have been distrained which in the opinion of the person authorized under sub-section (2) of section 507 to sign a warrant, should not have been so distrained, they shall forthwith be returned.

(4) The officer shall on seizing the property, forthwith make an inventory thereof, and shall before removing the same give to the person in possession thereof at the time of seizure a written notice in the form prescribed by rule that the said property will be sold as shall be specified in such notice.

Sale of goods under warrant and application of proceeds.

510. (1) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be recovered is likely to exceed its value, the Mukhya Nagar Adhikari or other officer by whom the warrant was signed, shall at once give notice to the person in whose possession the property was seized to the effect that it will be sold at once, and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

(2) If not sold at once under sub-section (1) the property seized or a sufficient portion thereof may, on the expiration of the time specified in the notice served by the officer executing the warrant, be sold by public auction under the orders of the Mahapalika unless the warrant is suspended by the person who signed it or the sum due from the defaulter is paid together with all costs incidental to the notice, warrant of distress and detention of the property.

(3) The surplus, if any, shall be forthwith credited to the Mahapalika fund, notice of such credit being given at the same time to the person from whose possession the property was taken ; but if the same be claimed by written application made to the Mukhya Nagar Adhikari within one year from the date of the notice, a refund thereof shall be made to such person. Any sum not claimed within one year from the date of such notice shall be the property of the Mahapalika.

Procedure in case of execution against property outside the City.

511. (1) If no sufficient movable property belonging to a defaulter, or being upon the premises in respect of which he is assessed, can be found within the City, the District Magistrate may, on the application of the Mahapalika, issue his warrant to an officer of his court—

(*a*) for the distress and sale of any movable property or effects belonging to the defaulter within any other part of the jurisdiction of the District Magistrate, or

(*b*) for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any other District Magistrate exercising jurisdiction within Uttar Pradesh.

(2) In the case of action being taken under clause (*b*) of sub-section (1), the other District Magistrate shall endorse the warrant so issued, and cause it to be executed, and any amount recovered to be remitted to the District Magistrate issuing the warrant, who shall remit the same to the Mahapalika.

Recovery by attachment and sale of defaulter's immovable property.

512. In the circumstances mentioned in sub-section (1) of section 507, the Mukhya Nagar Adhikari or the officer referred to in cluse (*b*) of sub-section (1) of section 507, may in lieu of issuing a warrant for distress and sale of movable property or where such warrant has been issued but the amount recoverable has not been recovered in whole or part issue a warrant for the attachment and sale of the defaulter's immovable property.

Warrant how to be executed in the case of immovable property.

513. (1) When a warrant is issued under section 512 for the attachment and sale of immovable property, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge, and declaring that the property will be sold unless the amount due, with the costs of recovery, are paid into the Mahapalika office within five days.

(2) Such order shall be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be fixed on a conspicuous part of the property and upon a conspicuous part of the office of the Mahapalika and also, when the property is land paying revenue to the State Government, in the office of the Collector of the district in which the land is situate.

(3) Any transfer of a charge on the property attached or of any interest therein made without the written permission of the Mukhya Nagar Adhikari shall be void as against all claims of the Mahapalika enforceable under the attachment.

Sale of immovable property

514. (1) If the amount due is not paid within the period stated in sub-section (1) of section 513 the immovable property or a sufficient portion thereof may be sold by public auction by order of the Mukhya Nagar Adhikari unless the warrant is suspended by him, or the sum due and the cost of recovery are paid by the defaulter and the Mukhya Nagar Adhikari shall apply the proceeds or such part thereof as shall be requisite in discharge of the sum due and of the costs of recovery.

(2) The surplus, if any, shall be forthwith credited to the Mahapalika Fund, but if the same be claimed by written application to the Mukhya Nagar Adhikari within six months from the date of the sale, a refund thereof shall be made to the defaulter and any surplus not claimed within six months as aforesaid shall be the property of the Mahapalika.

(3) Where the sum due and the costs of recovery are paid by the defaulter before a sale is effected, the attachment of immovable property shall be deemed to have been removed.

(4) Sales of immovable property under this section shall be held in the manner laid down in the rules.

(5) After sale of the immovable property as aforesaid, the Mukhya Nagar Adhikari shall put the person declared to be the purchaser in possession of the same and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers.

(6) It shall be lawful for the Mukhya Nagar Adhikari on behalf of the Mahapalika to offer a nominal bid in the case of any immovable property put up for sale, provided the previous approval of the Executive Committee is obtained to such bidding.

(7) The Mukhya Nagar Adhikari may direct the removal from the immovable property by any police officer of any person who obstructs him in any action taken in pursuance of sub-section (5) and may also use such force as is reasonably necessary to effect entry on the said property.

Special provisions in regard to non-payment of octroi or toll.

515. (1) In the case of non-payment of any octroi or any toll on demand by any person authorized in this behalf by the Mukhya Nagar Adhikar such person may seize any goods on which the octroi is chargeable, or any vehicle or animal on which the toll is chargeable or any part of the burden of such vehicle or animal which is in his opinion of sufficient value to satisfy the demand together with the expenses incidental to the seizure, detention and eventual sale if necessary, of such animal, goods, vehicle, burden or part thereof, and may detain the same. He shall thereupon give the person in possession of the vehicle, animal or thing seized, a list of the property together with a written notice.

(2) When any property seized is subject to speedy decay, or when the expense of keeping it together with the amount of octroi or toll chargeable is likely to exceed its value, the person seizing such property may inform the person in whose possession it was that it will be sold at once ; and shall sell it or cause it to be sold accordingly unless the amount of octroi or toll demanded and the expenses incidental to the seizure be forthwith paid.

(3) If at any time before a sale has begun, the person from whose possession the property has been seized, tenders at the office of the Mahapalika the amount of all expenses incurred and of the octroi or toll payable, the Mukhya Nagar Adhikari shall forthwith deliver to him the property seized.

(4) If no such tender is made, the property seized may be sold, and the proceeds of such sale shall be applied in payment of such octroi, and the expenses incidental to the seizure, detention and sale.

(5) The surplus, if any, of the sale-proceeds shall be credited to the Mahapalika Fund, and may, on application made to the Mukhya Nagar Adhikari in writing within six months next after the sale, be paid to the person in whose possession the property was seized, and if no such application is made, shall become the property of the Mahapalika.

(6) The expenses incidental to the seizure of any property under this section shall be determined in such manner as the Mukhya Nagar Adhikari may specify in this behalf but shall not in any case exceed ten per cent of the amount of octroi or toll payable.

516. (1) Where a bill for any sum due on account of any property tax is served upon an occupier of premises pursuant to sub-section (1) of section 504, the Mukhya Nagar Adhikari may at the time of service or at any subsequent time cause to be served upon the occupier a notice requiring him to pay to the Mahapalika any rent due or falling due from him to the person primarily liable for the payment of the said tax to the extent necessary to satisfy the said sum due.

Attachment of rent due.

(2) Such notice shall operate as an attachment of the said rent until the said sum due on account of property-tax shall have been paid and satisfied, and the occupier shall be entitled to credit in account with the person to whom the said rent is due for any sum paid by him to the Mahapalika in pursuance of such notice.

(3) If the occupier shall fail to pay to the Mahapalika any rent due or falling due which he has been required to pay in pursuance of a notice served upon him as aforesaid the amount of such rent may be recovered from him by the Mukhya Nagar Adhikari as if it were an arrear of property tax under section 504.

517. Instead of proceeding against a defaulter by distress, attachment and sale as hereinbefore provided, or after a defaulter shall have been so proceeded against unsuccessfully or with only partial success, any sum due or the balance of any sum due, as the case may be, by such defaulter, on account of a tax may be recovered from him by a suit in any Court of competent jurisdiction.

Defaulters may be sued for arrears, if necessary.

518. Fees for—

Fees and cost.

(*a*) every notice issued under section 506,

(*b*) every distress made under section 509,

(*c*) the costs of maintaining any livestock seized under the said section,

shall be chargeable at the rates respectively specified in such behalf in rules made by the State Government, and shall be included in the costs of recovery to be levied under section 507.

519. No distress, attachment or sale made under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of an error, defect or want of form in the bill, notice, warrant of distress, inventory or other proceeding relating thereto.

Savings.

520. Any Mahapalika dues declared by this Act or by rules or bye-law to be recoverable in the manner provided by this Chapter may be recovered by the Mukhya Nagar Adhikari in accordance as far as may be with the provisions of sections 504 to 514 and 516 to 519 as if the amount due were a tax.

Recovery of dues declared recoverable as tax.

Recovery of expenses of removals by Mukhya Nagar Adhikari under certain sections.

521. (1) The expenses incurred by the Mukhya Nagar Adhikari in effecting any removal under section 296 or sub-section (3) of section 302, or in the event of a written notice issued under sub-section (2) of section 292 or sub-section (3) of section 293 or section 303 or sub-section (3) of section 305 or sub-section (1) of section 306, or section 331 not being complied with, under section 558, and all other expenses and charges specified in sub-section (2), if any, shall, subject to the provisions of sub-section (2), be recoverable by the sale of the materials removed, and if the proceeds of such sale do not suffice, the balance shall be paid by the owner of the said materials.

(2) If the expenses of removal are in any case paid before the materials are sold, the Mukhya Nagar Adhikari shall restore the materials to the owner thereof, on his claiming the same at any time before they are sold or otherwise disposed of, and on his paying all other expenses, if any, incurred by the Mukhya Nagar Adhikari in respect thereof or in respect of the intended sale or disposal thereof and all such charges, if any, as the Mukhya Nagar Adhikari may fix for the storage of the materials.

(3) If the materials are not restored to the owner thereof under sub-section (2), they shall be sold by auction or otherwise disposed of as the Mukhya Nagar Adhikari thinks fit :

Provided that, if the materials are perishable, they may be sold or disposed of forthwith, and, if other than perishable, they shall be sold or disposed of as soon as conveniently may be after one month from the date of their removal whether the expenses of the removal and the charges, if any, for storage have in the meantime been paid or not and the proceeds, if any, of the sale or other disposal, shall, after defraying therefrom the costs of the sale or other disposal, and, if necessary, of the removal and the charges for storage be paid to the credit of the Mahapalika Fund, and shall be the property of the Mahapalika.

Expenses recoverable under the Act to be payable on demand, and if not paid on demand may be recovered as arrear of property tax

522. (1) Whenever under this Act, or any rule, regulation or bye-law, the expenses of any work executed or of any measure taken or thing done by or under the order of the Mukhya Nagar Adhikari or of any Mahapalika officer empowered under section 119 in this behalf are payable by any person, the same shall be payable on demand.

(2) If not paid on demand, the said expenses shall be recoverable by the Mukhya Nagar Adhikari subject to the provisions of sub-section (4) of this section and sub-section (3) of section 481 by distress and sale of the movable property or attachment and sale of the immovable property of the defaulter, as if the amount thereof were a property-tax due by the said defaulter.

(3) If, when the Mukhya Nagar Adhikari demands payments of any expenses under sub-section (1), his right to demand the same or the amount of the demand is disputed, or if, in the case of expenses incurred by the Mukhya Nagar Adhikari in taking temporary measures under sub-section (2) of section 308, the necessity for such temporary measures is disputed, the Mukhya Nagar Adhikari shall refer the case for the determination of the Judge.

(4) Pending the Judge's decision the Mukhya Nagar Adhikari shall defer further proceedings for the recovery of the sum claimed by him, and after decision, shall, subject to the provisions of section 481, proceed to recover only such amount, if any, as shall be thereby determined to be due.

If defaulter is owner of premises in respect of which expenses are payable, occupier to be also liable for payment thereof.

523. If the expenses referred to in section 522 are due in respect of some work executed or thing done to, upon or in connexion with, some building or land or of some measure taken with respect to some building or land in repect of a private street and the defaulter is the owner of such building or land or of the premises fronting or adjoining such street or abutting thereon, as the case may be, the amount thereof may be demanded from any person who at any time, before the said expenses have been paid, occupied the said building, land or premises under the said owner and in the event of the said person failing to pay the same, they may be recovered by distress and sale of the movable property or the attachment and sale of the immovable property of the said person, as if the amount thereof were a property tax due by him :

Provided that—

(*a*) unless the said person neglects or refuses at the request of the Mukhya Nagar Adhikari truly to disclose the amount of the rent payable by him in respect of the said building or premises and the name and address of the person to whom the same is payable, the said person shall not be liable to pay on account of the said expenses any larger sum than, up to the time of demand, is payable by him to the owner on account of rent of the said building, land or premises; but it shall rest upon the said person to prove that the amount of the expenses demanded of him is in excess of the sum payable by him to the owner ;

(*b*) the said persons shall be entitled to credit in account with the owner for any sum paid by or recovered from him on account of the said expenses ;

(*c*) nothing in this section shall affect any agreement made between the said person and the owner of the building, land or premises in his occupation respecting the payment of the expenses of any such work, thing or measure as aforesaid.

Mukhya Nagar Adhikari may agree to receive payment of expenses in instalments

524. Instead of recovering any such expenses as aforesaid in any manner hereinbefore provided, the Mukhya Nagar Adhikari may, if he thinks fit and with the approval of the Executive Committee, take an agreement from the person liable for payment thereof, to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon, at such rate not exceeding nine per cent per annum as the Executive Committee may fix from time to time, within a period of not more than five years.

Certain expenses may be declared to be improvement expenses

525. (1) Any expenses incurred by the Mukhya Nagar Adhikari under any provision of this Act in respect of any material or fittings supplied or work executed or thing done to, upon or in connexion with some building or land which are recoverable from the owner or occupier of such building or land may, subject to the regulations, be declared to be improvement expenses if the Mukhya Nagar Adhikari with the approval of the Mahapalika, thinks fit so to declare them, and on such declaration being made, such expenses, together with interest thereon payable under sub-section (2), shall be a charge on the premises in respect of which, or for the benefit of which the expenses have been incurred.

(2) Improvement expenses shall be recoverable in instalments of such amount not being less for any premises than twelve rupees per annum, and at such intervals as will suffice to discharge such expenses, together with interest thereon at such rate not exceeding six per cent per annum as the Executive Committee may fix from time to time, within such period not exceeding thirty years as the Mukhya Nagar Adhikari with the approval of the Mahapalika may in each case determine.

(3) The said instalments shall be payable by the occupier of the premises on which the expenses and interest thereon are so charged or, in the event of the said premises becoming unoccupied at any time before the expiration of the period fixed for the payment of such expenses or before the sum, with interest as aforesaid, are fully paid off, by the owner for the time being of the said premises, so long as the same continue to be unoccupied.

Proportion of improvement expenses may be deducted from rent

526. (1) Where the occupier by whom any improvement expenses are paid holds the premises on which the expenses together with interest thereon are charged on rent, he shall be entitled to deduct three-fourths of the amount paid by him on account of such expenses and interest thereon as aforesaid from the rent payable by him to his landlord.

(2) If the landlord from whose rent any deduction is so made is himself liable to the payment of rent for the premises in respect of which the deduction is made and holds the same for a term of which less than twenty years is unexpired (but not otherwise), he may deduct from the rent so payable by him such proportion of the same deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof :

Provided that nothing in this section shall be construed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

Redemption of charge for improvement expenses

527. At any time before the expiration of the period for the payment of any improvement expenses together with interest thereon, the owner or occupier of the premises on which they are

charged may redeem such charge by paying to the Mukhya Nagar Adhikari such part of the said expenses and such interest due, if any, as may not have been already paid or recovered.

Recovery of instalments due under sections 524 and 525

528. Any instalment payable under section 524 or 525 which is not paid when the same becomes due, may be recovered by the Mukhya Nagar Adhikari by distress and sale of the movable property or the attachment and sale of immovable property of the person by whom it is due as if it were a property tax due by the said person.

In default of owner the occupier of any premises may execute required work and recover expenses from the owner

529. Whenever the owner of any building or land fails to execute any work which he is required to execute under this Act or under any rule, regulation or byelaw, the occupier, if any, of such building or land may with the approval of the Mukhya Nagar Adhikari execute the said work, and he shall be entitled to recover the reasonable expenses incurred by him in so doing from the owner and may without prejudice to any other right of recovery deduct the amount thereof from the rent which from time to time becomes due by him to the owner.

Persons liable for expenses or compensation may be sued for recovery thereof

530. Instead of proceeding in any manner aforesaid for the recovery of any expenses or compensation of which the amount due has been ascertained as hereinbefore provided, or after such proceedings have been taken unsuccessfully or with only partial success, the sum due, or the balance of the sum due, as the case may be, may be recovered by a suit brought against the person liable for the same in any court of competent jurisdiction.

CHAPTER XXII

CONTROL

Power of State Government to call for extracts from proceedings, etc

531. (1) The State Government may at any time call upon the Mahapalika to furnish it with any extract from any proceedings of the Mahapalika, the Executive Committee, or any other Committee constituted under this Act or from any record under the control of the Mahapalika and with any statistics concerning or connected with the administration of this Act; and the Mahapalika shall furnish the same without unreasonable delay.

(2) The State Government may at any time call upon the Mukhya Nagar Adhikari to furnish it with any information, report, explanation or statistics concerning or connected with the executive administration of this Act and the Mukhya Nagar Adhikari shall furnish the same without unreasonable delay.

State Government's power to cause inspection to be made

532. The State Government may depute any officer to inspect or examine any Mahapalika department, office, service, work or thing and to report thereon and any officer so deputed may, for the purposes of such inspection or examination, exercise all the powers conferred by section 531 upon the State Government.

State Government's power to direct the taking of action

533. If on receipt of any information or report obtained under section 531 or 532 or otherwise the State Government are of opinion—

(*a*) that any duty imposed on any Mahapalika authority by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner, or

(*b*) that adequate financial provision has not been made for the performance of any such duty,

the State Government may, by an order, direct the Mahapalika or the Mukhya Nagar Adhikari within a period to be specified in the order to make arrangements to their satisfaction for the proper performance of the duty, or to make financial provision to their satisfaction for the performance of the duty, as the case may be :

Provided that, unless in the opinion of the State Government the immediate execution of such order is for reasons to be recorded in writing necessary, the State Government shall, before making an order under this section, give the Mahapalika an opportunity of showing cause why such order should not be made.

State Government's power to appoint a person to take action in default at expense of Mahapalika

534. (1) If within the period fixed by an order issued under section 533, any action directed under that section has not been duly taken, the State Government may by order—

(*a*) appoint some person to take the action so directed

(*b*) fix the remuneration to be paid to him; and

(c) direct that such remuneration and the cost of taking such action shall be defrayed out of the Mahapalika fund, and, if necessary, that any one or more of the taxes authorized under Chapter IX shall be levied or increased, but not so as to exceed any maximun prescribed by that Chapter.

(2) For the purpose of taking the action directed as aforesaid the person appointed under sub-section (1) shall have power to make such contracts as are necessary, and may exercise any of the powers conferred on any Mahapalika authority by or under this Act and specified in this behalf in the order issued under sub-section (1), and shall be entitled to protection under this Act as if he were a Mahapalika authority.

(3) The State Government may, in addition to or instead of, directing the levy or increase of any of the said taxes, direct by notification that any sum of money which may in their opinion be required for giving effect to their orders be borrowed by debenture on the security of all or any of the said taxes at such rate or interest and upon such terms as to the time of re-payment and otherwise as may be specified in the notification.

(4) The provisions of sections 156 to 170 shall, as far as may be, apply to any loan raised in pursuance of this section.

Powers of State Government in case of emergency

535. (1) In case of emergency the State Government may provide for the execution through such agency and in such manner as it may specify in its order of any work or the doing of any act which the Mahapalika or the Mukhya Nagar Adhikari with or without the sanction of the Mahapalika or the Executive Committee is empowered to execute or do and of which the immediate execution or doing is, in its opinion, necessary for the safety or protection of the public and may direct that the expense of executing the work or doing the act shall be forthwith paid by the Mahapalika.

(2) If the expense is not so paid the State Government may make an order directing the person having the custody of the Mahapalika fund to pay the expense from such fund.

Submission of copies of resolutions to State Government

536. The Mukhya Nagar Adhikari shall submit to the State Government, and if so directed by the State Government, the Prescribed Authority, copies of all resolutions of the Mahapalika, the Executive Committee, the Development Committee and of other Committees, and Joint Committees and sub-committees of the Mahapalika.

Power of State Government to suspend action under this Act

537. (1) If the State Government is of opinion that the execution of any resolution or order of the Mahapalika or of any other Mahapalika authority or of any other Committee or joint Committee or sub-committee or of any officer or servant of the Mahapalika or the doing of any act which is about to be done or is being done by or on behalf of the Mahapalikais in contravention of or in excess of the powers conferred by this

Act or of any other law for the time being in force or has been passed or made in abuse of any such power or is likely to lead to a breach of the peace or to cause obstruction, injury or annoyance to the public or to any class or body of persons or danger to human life, health or safety or is prejudicial to public interest, the State Government may, by order in writing, suspend the execution of such resolution or order, or prohibit the doing of any such act.

(2) A copy of such order shall forthwith be sent to the Mahapalika by the State Government.

(3) The State Government may at any time, on representation by the Mahapalika or otherwise, revise, modify or revoke an order passed under sub-section (1).

Power of State Government to dissolve Mahapalika in case of incompetency, persistent default or excess or abuse of powers

538. (1) If at any time upon representation made it appears to the State Government that the Mahapalika is not competent to perform or persistently makes default in the performance of the duties imposed upon it by or under this Act or any other law for the time being in force or exceeds or abuses more than once its powers, the State Government may, after having given the Mahapalika an opportunity to show cause why such order should not be made, by an order published with the reasons therefor in the official *Gazette* dissolve the Mahapalika.

(2) A copy of the order under sub-section (1) shall be laid, as soon as may be, before each House of the Uttar Pradesh Legislature.

(3) When a Mahapalika is dissolved under sub-section (1) the following consequences shall ensue:

(*a*) the Nagar Pramukh, the Upa Nagar Pramukh and all Sabhasads and Vishishta Sadasyas shall, on a date to be specified in the order, vacate their respective offices but without prejudice to the eligibility for re-election under clause (*b*) ;

(*b*) necessary elections shall be held as far as possible within three months but in any case within six months after the order of dissolution to reconstitute the Mahapalika in accordance, as far as may be, with the provisions of this Act relating to the first constitution of the Mahapalika, and till then the Mukhya Nagar Adhikari shall carry on the routine work of the Mahapalika and the Committees mentioned in section 5.

Power of State Government to supersede Mahapalika

539. (1) If after dissolution of the Mahapalika the reconstituted Mahapalika also appears to the State Government to be not competent to perform or to persistently make default in the performance of duties imposed upon it by or under this Act or any other law for the time being in force or to exceed or abuse its powers more than once, the State Government may, after having given the Mahapalika an opportunity to show cause why

such order should not be made, by an order published with the reasons therefor in the official *Gazette* supersede the Mahapalika for a period of one year.

(2) When an order of supersession is made under sub-section (1), the following consequences shall ensue:

(*a*) the Nagar Pramukh, the Upa Nagar Pramukhand all the Sabhasads and Vishishta Sadasyas shall, as from the date of the order of supersession, vacate their offices as such Nagar Pramukh, Upa Nagar Pramukh, Sabhasads and Vishishta Sadasyas ;

(*b*) all the powers and duties of the Mahapalika, the Executive Committee, the Development Committee and other Committees shall, during the period of supersession, be exercised and performed by such person as the State Government from time to time appoints in this behalf and such person shall be called the Administrator of the City ;

(*c*) all property vested in the Mahapalika shall, during the period of supersession, vest in the State ;

(*d*) the person appointed under clause (*b*) may delegate his powers and duties to an individual or to a committee or sub-committee ;

(*e*) all debts and obligations incurred, all contracts entered into and all matters and things to be done by, or for, the Mahapalika or the Administrator of the City before the reconstitution of the Mahapalika shall be deemed to have been incurred, entered into or to be done by, or for, the Mahapalika as reconstituted under sub-section (4);

(*f*) every appointment, notification, notice, tax, order, scheme, licence, permission, rule, bye-law or form made, issued, or imposed by the Mahapalika or the Administrator of the City before the reconstitution of the Mahapalika under this section and not inconsistent with this Act, shall be deemed to have been respectively made, issued, or imposed under the provisions of this Act and shall unless subsequently altered, modified, cancelled, suspended, surrendered or withdrawn, as the case may be, under this Act, remain in force for the period, if any, for which it was so made, issued or imposed.

(3) The State Government may from time to time, after inquiry made, by an order published in the official *Gazette*, extend the period of supersession with all the consequences aforesaid so however that the total extension does not in the aggregate exceed one year.

(4) Necessary elections shall be held in accordance, as far as may be, with the provisions of this Act for the first constitution of the Mahapalika to re-establish the Mahapalika on the